

Minutes of Meeting dated 18th April, 2020 At 3:00 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 (DSLISA).

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

Hon'ble Chairperson of the Committee while recapitulating the steps/measures already taken during earlier meetings to implement directions of Hon'ble Supreme Court of India issued vide its order dated 23.03.2020, apprised the participants about the subsequent orders passed by Hon'ble Supreme Court of India on 13.04.2020 in the above mentioned matter.

Hon'ble Chairperson expressed her opinion that further steps are required to be taken by this Committee inconsonance with the spirit/objectives of the fresh directions passed by the Hon'ble Supreme Court on 13.04.2020.

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

Sh. Sandeep Goel, DG (Prisons) informed the Chair about the successful implementation of the measures taken by the jail administration with respect to creation of **Isolation Wards**, preliminarily examination of the new entrants in jail for **COVID-19 (Novel Corona Virus)** as well as **Quarantine of new prisoners**. He further informed the Chair that the new entrants who are above 21 years of age are kept in

separate wards in Jail No.2 at Tihar and Jail No.13 in Mandoli strictly as per the resolution adopted in the last meeting. He further informed the Chair that separate **Isolation Wards** have been created in Jail No.6 for women inmates and in Jail No. 5 at Tihar for fresh male inmates between 18-21 years of age, so that the fresh inmates immediately on their arrival in Jail, **do not intermingle** with those who are already inside.

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 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:- TO CONSIDER MIGRATION AND TRANSFER OF PRISONERS FROM ONE JAIL TO ANOTHER PURSUANT TO RELEASE OF SOME PRISONERS AS PER CRITERIA ADOPTED IN PREVIOUS RESOLUTIONS OF HPC

On inquiry by the Chair, it is informed by D.G.(Prisons) that on the basis of criteria adopted vide resolutions dated 28.03.2020 and 07.04.2020, approximately 2700 inmates have already been released on interim bail/parole.

In order to find out the requirement of **migration/ transfer** of prisoners from one jail to another in view of the release of the prisoners, on being asked by the Chair, DG (Prisons) has provided the break-up of total holding capacity of the jails at Tihar, Mandoli and Rohini vis a vis their actual occupancy.

Overall Delhi Prisons	
Total capacity (16 jails)	10,026
Population as on 25.03.2020	17,552
Population on 18.04.2020	14,799

Tihar Jail Complex	
Holding capacity of 9 jails	5,200
Actual occupancy on 25.3.2020	11,981
Actual occupancy on 18.04.2020	10,115

Mandoli Jail Complex	
Holding capacity of 6 jails	3,776
Actual occupancy on 25.3.2020	3,747
Actual occupancy on 18.04.2020	3,144

Rohini Jail Complex	
Holding capacity	1,050
Actual occupancy on 25.3.2020	1,824
Actual occupancy on 18.04.2020	1,540

The Committee after considering the actual occupancy of the 9 Jails in Tihar, Rohini and 6 Jails in Mandoli and taking into account the fact that in the present circumstances of Corona virus pademic, the UTPs are not being physically produced in Courts and their remand is being

extended by the Duty Magistrate in the Jails itself, it is expedient that some of the prisoners from Rohini Jail and Tihar Jail can be shifted/transferred to Mandoli Jail.

DG (Prisons) apprised the Committee that some of the prisoners can be shifted from congested Rohini Jail and Tihar Jail complex to Mandoli as the actual occupancy of Mandoli as on date is less than its registered holding capacity.

On being inquired by the Chair regarding the area and outlay of these Jails, DG (Prisons) apprised the Committee that the total area of Tihar Jail, its outlay and particularly the **corridors and open spaces** it has in front of the individual cells and barracks can accommodate more prisoners than its registered holding capacity. Whereas, Rohini Jail Complex does not have that much open spaces to accommodate more prisoners than its actual holding capacity.

Taking into account the Jail population of Rohini Jail, Tihar Court Complex and Mandoli Court Complex, as well as their respective areas and outlays, the Committee has unanimously **resolved** that transferring of **200** prisoners from Rohini Jail and **50** prisoners from Tihar to Mandoli would sufficiently decongest Rohini and Tihar Jail. By doing so, Jail administration would be in a position to implement “**social distancing**” amongst the inmates of all the three Jail complexes.

The Committee in view of the suggestions made by DG (Prisons) has **resolved** that **200 prisoners** from Rohini Jail & **50 prisoners** from Tihar Jail can be shifted to Mandoli Jail on temporary basis i.e. till the time present circumstances prevailing in the country persist so as to enable the jail administration to implement **social distancing** amongst the prisoners.

It is further resolved that transportation of these 250 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.

ITEM NO.3:- 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 and 07.04.2020, is put up before the Committee. The same was perused by the Committee, which is as under:-

ITEM NO.3 (A):- WITH RESPECT TO PAROLE OF THE CONVICTS

A. With respect to parole of convicts	
Total Number of orders issued	1,109
Convicts released	953
<i>Note :Though, orders have been issued with respect <u>1,109 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.3 (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	2,503
Orders granting bail received as on 06.04.2020	1,877
UTPs already released	1,777
<i>Though, interim bail orders have been issued with respect to <u>1877 UTPs</u> but some of them are not released owing to the want of permanent address, they being vagabond and some of the UTPs being unwilling.</i>	

Sh. 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 and 07.04.2020, 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.3 (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	25

In terms of the resolution adopted in meeting dated 28.03.2020, Principal Secretary (Home) apprised this Committee on 07.04.2020, that the Govt. of NCT of Delhi had passed the necessary orders granting remission of sentence which shall be conveyed to the DG (Prisons) for the needful. DG (Prisons) apprised the Committee that pursuant to the receipt of the orders passed by Govt. of NCT of Delhi, they have already released 25 convicts. Whereas, 36 more shall be released up to 30.06.2020 on the basis of remission of sentence granted by Govt. of NCT of Delhi in terms of the resolution of this Committee dated 28.03.2020.

D.G.(Prisons) informed the Chair that there are 11 Convicts who have also become eligible for being released after grant of remission, in terms of 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.

Being conscious of the fact that COVID-19 pandemic has swept the country, forcing Central Government to declare 'National Lockdown' of 40 days, these convicts or their family members may have become incapacitated to deposit the fine so imposed on them, alongwith the substantial sentence.

It is accordingly **resolved** on suggestion 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).

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

Kanwal Jeet Arora, Member Secretary, DSLSA informed the Committee that pursuant to the directions given to him vide resolution dated 07.04.2020 of this Committee, a letter was sent by him to the Registrar General, High Court of Delhi. He apprised the Committee that

on the basis said letter of his, dated 07.04.2020, Hon'ble High Court of Delhi took cognizance vide **Writ Petition (Criminal) 779/2020** in "**Court on its own Motion Vs. State**".

High Court of Delhivide its order dated 09.04.2020 modified all the bail orders passed on or before 07.04.2020 with respect to those UTPs who could not submit surety bonds to avail the benefit of bail orders in their favour. The relevant portion of the orders passed by Hon'ble High Court of Delhi being:

Thus, all bail orders passed by this Court or by the Court subordinate to it, on or before 7th April, 2020, in pursuance where to the under-trial prisoners have not been bail owing to failure to satisfy the condition of furnishing surety bond, are modified and be read as granting bail without the condition of furnishing surety bond and instead allowing such under trial prisoners to be released on their furnishing personal bond to the satisfaction of Superintendent of Jail

It has further been informed to the Committee by the Member Secretary, DSLSA and DG (Prisons) that on the basis of these orders dated 09.04.2020 of Hon'ble High Court, the earlier bail orders passed in favour of UTPs were traced with assistance of Learned District & Sessions Judges, pursuant to which the UTPs were released on bail as under:-

Regular bail orders claimed by inmates	811
Bail orders traced from Court records	317
Inmates released on personal bond	207
<i>Note :The other UTPs could not be released despite having regular bail orders in their favor, as they are facing trial in other cases as well wherein they have not been granted bail.</i>	

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, number of UTPs / Convicts have been released on interim bail / parole and on grant of remission.

UTPs released on interim bail till 18.04.2020	1777
UTPs released pursuant to modification of bail orders by Hon'ble High Court in W.P.(Criminal) No.779 / 2020	207
Convicts released on Emergency Parole till 18.04.2020	953
Convicts released on remission of sentence	25
TOTAL UTPs / CONVICTS RELEASED ON INTERIM BAIL / PAROLE / REMISSION OF SENTENCE TILL 18.04.2020	<u>2,962</u>

ITEM NO.4:- DETERMINING FRESH CATEGORY OF PRISONERS WHO CAN BE RELEASED ON 'INTERIM BAIL'

Members of the Committee have taken into consideration that on the basis of the criteria adopted earlier, as on date about **2700** inmates/convicts/UTPs have been released on **parole/interim bail**.

The Committee taking into account the observations made by Hon'ble Supreme Court vide its subsequent orders dated 13.04.2020, as well as the advisory issued by the ICMR to the effect that the persons suffering from acute illness have lesser immunity and thus, are more prone of getting infected by **COVID-19 (Novel Corona Virus)**, is of the opinion that the criteria needs to be **further relaxed** with respect to those prisoners/ UTPs who are suffering from **HIV, Cancer, Chronic Kidney Dysfunction(UTPs requiringDialysis), Hepatitis B or C, Asthma, and TB**. 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 suffering from above illness(es). The same is submitted accordingly.

The Members of the Committee discussed the information so provided qua UTPs suffering from above illness(es) 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 suffering from above mentioned illness(es) and are in custody for **three months or more**, facing trial in a case which prescribes a maximum sentence of **7 years** or less;*
- (ii) *Under trial prisoners (UTPs), who are suffering from above mentioned illness(es) and are in custody for a period of **six months or more**, facing trial in a case which prescribes a maximum sentence of **10 years** or less ;*
- (iii) *UTPs who are suffering from above mentioned illness(es) and are in custody for a period of **six months or more** and facing trial in a case which prescribes punishment of 10 years upto life imprisonment and are not involved in multiple cases.*

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, MCOCA ;*
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 **50 UTPs** suffering from various illness(es) would be the beneficiaries and their release would further **ease out** the Jail Population.

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

The applications for interim bail of UTPs failing in abovementioned categories for being considered, should have a certificate of good conduct during their respective custody period from Jail Superintendent and a certificate from Jail Doctor certifying the illness, with which UTP is suffering, for him to qualify in the abovementioned category.

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 Sessions Judges on Duty/ Duty Magistrates in courts to take up these applications and if they opine that the under trial prisoners falling in the above mentioned criteria as well as the criteria adopted earlier, are to be 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, 07.04.2020, 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.

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.*

DG (Prisons) assured the Committee that before releasing any prisoner, he shall get them medically screened and shall transport him in full compliance of the **Norms of social distancing** for which he shall take necessary assistance of Delhi Police as well as Local Government Administration. Principal Secretary (Home) also assured to provide necessary assistance in this regard to DG (Prisons).

It is **resolved** accordingly.

ITEM NO.5:- CONSIDERATION OF THE REPRESENTATIONS RECEIVED

- (a) RELATING TO ISSUES OF SUMMONING, INVESTIGATION AND ARREST OF THE ACCUSED PERSONS DURING LOCKDOWN PERIOD BY DELHI POLICE**

Member Secretary, DSLSA brought to the notice of the Committee a representation dated 11.04.2020 addressed to the Chairperson of this Committee concerning issues relating to summoning, detention and arrest of the persons by the police during National Lockdown in connection with the FIRs registered regarding violence in North East area of Delhi in February, 2020.

Members of the Committee perused this representation along with its annexures. 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 was formed. The signatories of the representation are at liberty to move appropriate Courts in case they are aggrieved of the summoning or arrest made by the police.

(b) ISSUES CONCERNING PAROLE OF CONVICTS WHOSE APPEALS AGAINST CONVICTION ARE PENDING BEFORE HON'BLE HIGH COURT

Member Secretary, DSLSA further brought to the notice of the Committee another representation addressed to the Chairperson of this Committee sent by email on 11.04.2020.

Members of the Committee perused the said representation so sent by Kanhiya Singhal, Advocate which pertains to grant of parole to the convicts whose appeals against conviction are pending before Hon'ble High Court.

On perusal of representation and after going through the decisions of Hon'ble Supreme Court in case titled "**K.M. Nanawati Vs. State of Bombay (now Maharashtra)**" reported as AIR 1961 SC 112, and that of Hon'ble High Court of Delhi in **Writ Petition (Crl.) NO.235/2016**, titled "**Vikas Yadav Vs. State**", the Committee does not propose to make any recommendation for grant of parole to the convicts, where appeals are pending before Hon'ble High Court of Delhi. Applicant is at liberty to approach appropriate Court in this regard.

Committee directs Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to inform the applicants who made the above two representations with respect to the outcome thereto.

It is **resolved** accordingly.

ITEM NO.6:- ANY OTHER ISSUE WITH PERMISSION OF THE CHAIR:-

As per directions given by the Committee to the Member Secretary, DSLSA in terms of the resolution dated 07.04.2020, the Member Secretary, DSLSA has informed the Committee about the information gathered with respect to the steps taken by the Observation Homes, Children Homes, JJBs and CWCs towards implementation of directions given by Hon'ble Supreme Court and steps taken by them to prevent the outbreak of **COVID-19 (Novel Corona Virus)** in Remand Homes and Children Homes. He informed the Committee that all these OHBs and Children Homes have less **actual occupancy** than their **holding capacity**. He further informed the Committee that Superintendents of these Homes are taking all necessary precautions to prevent the outbreak of **COVID-19 (Novel Corona Virus)** in their respective Homes.

As per the report received, Member Secretary, DSLSA further informed the Committee that the **principle of social distancing** and use of disinfectant in the common areas frequented by the inmates of these Homes is being done regularly. Member Secretary, DSLSA further informed the Committee that to implement the directions of Hon'ble Supreme Court in **"Suo Motu Petition (Civil) No. 4/2020 - In Re: Contagion of COVID-19 VIRUS IN CHILDREN PROTECTION HOMES"** dated 03.04.2020, and its subsequent orders dated 07.04.2020, Juvenile Justice Committee of Hon'ble High Court of Delhi has already passed substantial directions to the all concerned.

The Committee on the basis of information so provided to it by the Member Secretary, DSLSA and considering the separate directions given by Hon'ble Supreme Court in its order dated 03.04.2020, in **"Suo Moto Petition (Civil) No.4/2020- In Re : Contagion of COVID-19 VIRUS IN CHILDREN PROTECTION HOMES"**, and subsequent order dated 07.04.2020, is of the opinion that **no further resolutions** are required to be passed by this Committee in this regard.

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,
DSLISA.

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