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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 31.08.2020

+ W.P.(C) 11789/2018

DELHI SIKH GURUDWARA MANAGEMENT COMMITTEE

..... Petitioner

Through: Mr. Maninder Singh with Ms. Aekta
Vats & Mr. Harpreet Singh Hora,
Advocates

versus

GOVERNMENT OF NCT OF DELHI AND ANR. Respondents

Through: Mr. Gautam Narayan, ASC for
GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

D.N. PATEL, Chief Justice (Oral)

Proceedings in the matter have been conducted through video conferencing.

1. The present petition has been filed with the following prayers:-

“a) Issue Writ(s) or Order(s) in the nature of Mandamus thereby commanding the Respondents to follow in letter and in spirit the observations in case titled, "Sunil Batra vs. Delhi Administration", (1980) 3 SCC 488, pertaining to the rights and dignity of prisoners;

b) Issue Writ(s) or Order(s) in the nature of Mandamus commanding the Respondents to refrain from acting in an arbitrary and discriminatory manner against the prisoners lodged in the High Security Wards/Prisons, Tihar Jail, New Delhi, in comparison to the prisoners lodged in the General Wards/ Prisons, Tihar Jail, New Delhi;

c) Issue Writ(s) or Order(s) in the nature of Certiorari thereby quashing Sub-rule (4) under the heading of "Don'ts" under Rule "V" pertaining to "Food, Toilet, Clothing and Bedding" of Standing Order No. 2/2017 as well as Rule "IX" pertaining to "Interview" under the said Standing Order issued by Respondent No. 2, as the same are violative of the Fundamental Rights of the prisoners lodged in the High Security Wards/Prisons, Tihar Jail, New Delhi, guaranteed under the Constitution of India and being ultra vires the provisions of the Delhi Prisons Act, 2000 and Rules framed thereunder; And

d) Pass any other Order(s) and/or Directions(s) or formulate any other Guideline(s) as this Hon'ble Court may deem fit and proper, in the interest of Justice."

2. For ready reference Rule V(4) of Standing Order dated 13.11.2017 (Annexure P-1 of the memo the writ petition) is extracted hereunder:-

"V. Food, Toilet, Clothing & Bedding"

xxxx xxxx xxxx xxxx xxxx

Don'ts

xxxx xxxx xxxx xxxx xxxx

4. *TV, Transistors or FM Radio are strictly prohibited and should not be allowed in High Security Ward except with prior authorization of the Court or DG(P)."*

3. In this Public Interest Litigation, arguments have been canvassed mainly about the facilities required to be extended to the jail inmates who are in High Security Ward (HSW).

4. Learned counsel for the respondent submitted that the classification of High Security Ward (HSW) prisoners and General Ward (GW) prisoners is statutorily recognized and permitted under Section 28 of the Delhi Prisons Act, 2000 (“Delhi Prisons Act”) and the Government of NCT of Delhi is empowered under Section 71 of the Delhi Prisons Act to make rules for classification and separation of prisoners, their treatment, regulation of bringing articles into prison etc. It is submitted that the classification of prisoners into General and High Security is done by the competent authority after application of mind and due consideration of a variety of serious issues, the most important and paramount being the objective of securing the safety of inmates of the prison, visitors and the prison as a whole. The placing of prisoners in HSW is based on an analysis of the security threat/hazard posed by the said prisoners and is subject to periodic review.

5. The respondent no. 2 has filed additional affidavit dated 27.07.2020, detailing the facilities being extended to the High Security Ward jail inmates. Paras 8, 8.1, 8.2 and 10 of the additional affidavit read as under:-

“8. Facilities provided for interaction with the outside world.

It is stated that Chapter 25 of the Delhi Prison Rules, 2018 contemplates various facilities to be provided to the High-Risk Ward prisoners such as a provision of books, newspapers, writing material etc.

8.1 Radio/ newspapers/ books: It is submitted that the facility of radio, magazines, newspapers and books are regularly provided to the prisoners in the High-Risk Ward

cell. The submission of the Petitioner alleging a denial of these facilities and complete isolation of prisoners is incorrect and is categorically denied.

8.2 Phone calls: It is stated that 2 phone calls with a family member or legal counsel are permitted per prisoner per week and is being availed by prisoners through the Inmate Phone Call system. Apart from this, in an emergent situation an additional phone call is also allowed to inmates at their request. It is pertinent to mention that in the backdrop of Covid-19 and the risks posed by it, physical meetings with the family member and legal counsel are currently not permitted; however, the Respondent has initiated a Video Conferencing facility for the prisoners, to be availed on basis of request of their counsel. This has been started in Central Jail No.6, Tihar and will be extended to other prisons in phase wise manner.

10. It is humbly submitted that medical care is being provided to all inmates without any discrimination. The medical calls are also attended by the Doctor on duty, preferably in the enclosure of the High Security Ward itself, except in exceptional cases where there is an emergency. Further, specialists/ medical officers/ para-medical staff visit the High Security Wards on the days fixed by the prison authorities without fail.”

6. Looking to the affidavits and the reports filed by the respondents and also the provisions of the Jail Manual, it appears that the respondents are providing facilities to the jail inmates like books, newspapers, weekly magazine, visiting doctors, counsellors and psychiatrists, mulakat/telephone facility, canteen, library facility etc. Television/radio outside the cell, regular physical exercise, yoga, sport, games and recreation etc. are being conducted by the respondents to the Jail inmates.

7. Learned counsel for the petitioner submitted that the inmates of HSW are not being provided with the facilities of television (TV).

8. In this regard, it is submitted by the counsel for the respondents that now a decision has been taken by the respondents that the TV facility will be provided to the HSW prisoners in a common area which is to be constructed near the high security ward. He further submitted that all steps in this direction will be completed by 30.09.2020.

9. Counsel for the petitioner is satisfied with this statement.

10. It is expected from the respondents that a time limit fixed by the respondents for the construction of the common area for TV facilities for the High Security Ward jail inmates shall be adhered to and in any case not exceeded beyond 30.09.2020.

11. Counsel for the petitioner submitted that now nothing further is required to be considered in this Public Interest Litigation.

12. In view of these facts and also looking to the earlier affidavits and records filed in this writ petition, we see no reason to further monitor this case. Accordingly, this writ petition is hereby disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 31, 2020

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