

Ashok Kumar
H.J.S.
Member Secretary



U.P. State Legal Services Authority

(Constituted under the Legal Services Authorities Act, 1987)

To

1. The Registrar General
Hon'ble High Court of Judicature at
Allahabad.
2. Sri Awanish Kumar Awasthi, I.A.S.
Additional Chief Secretary (Home/Jails)
Govt. of Uttar Pradesh, Lucknow.
3. Sri Anand Kumar, I.P.S.
D.G. (Prison)
Govt. of Uttar Pradesh, Lucknow.

No. 1057/SLSA-15/2020 (PS/Sharan)

Dated: May 11, 2021

Sub: Regarding Compliance of the directions of the Meeting of the High Powered Committee (HPC) Dated 10-05-2021 & Hon'ble Supreme Court directions dated 07-05-2021 In Re Contagion of COVID Virus in Prisons:

Sir,

It is humbly submitted that a High Powered Committee (referred herein as HPC) was constituted in compliance of the directions issued by Hon'ble Supreme Court in the Writ Petition (C) No.01/2020 IN RE: CONTAGION OF COVID-19 IN PRISONS, comprising;

- 1- Hon'ble Mr. Justice Sanjay Yadav, the Executive Chairman, UP State Legal Services Authority/Patron-in Chief /the Acting Chief Justice of the Hon'ble Allahabad High Court;
- 2- Sri Awanish Kumar Awasthi, I.A.S., Additional Chief Secretary Home & Jails, Govt. of U.P. and
- 3- Sri Anand Kumar, I.P.S., D.G. (Prison), Uttar Pradesh.

Held it's meeting by circulation dated 10.05.2021, in compliance of the order of Hon'ble Supreme Court *In Re Contagion Of COVID- Virus In Prisons (supra)* & resolved to issue the following directions among others for strict & immediate Compliance:-

- 1- Release of all inmates released earlier (last year) in pursuance of the order of Hon'ble Supreme Court dated: 23-03-2020 In Re: Contagion of COVID Virus In Prisons (supra):

In this regard, Hon'ble Supreme Court has observed on 07-05-2021, *In Re Contagion of COVID Virus In Prisons, (supra)*;

"Thirdly, due to the immediate concern of the raging pandemic, this Court has to address the issue of de-congestion, we find merit in the submission of Mr. Colin Gonsalves, Learned Senior Counsel appearing on behalf of the applicant, that the High Powered Committee, in addition to considering fresh release, should forthwith release all the inmates who had been released earlier pursuant to our order 23-03-2020 by imposing appropriate conditions. Such an exercise is mandated to save valuable time."(Emphasis supplied)

In compliance of this directions, it is hereby directed that all those Jail Inmates who were released on parole or interim bail in compliance of the earlier order of Hon'ble Supreme Court Dated: 23-03-2020, *In Re Contagion of COVID Virus In Prisons* in the year 2020 shall forthwith

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be released again by respective authorities in compliance of this order for a period of 90 days on Parole or interim bail as is the case. However, such release on Parole or interim bail shall be subject to appropriate conditions as imposed by the same respective authorities who exercised such jurisdiction at the time of their earlier release.

The Secretary State Monitoring Committee (SMC) shall ensure in co-ordination with other stake holders/authorities that the matter of such eligible inmates be placed before the respective authorities expeditiously for further orders in the matter of imposing appropriate conditions as per the discretion of those authorities. All the Chairmen of District Legal Services Authorities (DLSA's) shall ensure compliance of this order with promptitude & shall also make available required co-ordination and legal aid.

- 2- Decisions of HPC, Prison Occupancy to be updated on the official websites of Hon'ble High Court / UPSLSA and State Authorities:-

The Hon'ble Supreme Court has further held that;

"Fifth, the fight against the pandemic is greatly benefitted by transparent administration. In this regard, our attention was drawn to example of Delhi, wherein the prison occupancy is updated on the websites. Such measures are required to be considered by other States and should be adopted as a good practice. Moreover, all the decisions of High-Powered Committee need to be published on respective State Legal Services Authorities/State Governments/High Courts websites in order to enable effective dissemination of information."(Emphasis supplied)

It is therefore, hereby directed that Jail Authorities shall ensure display of prison occupancy on their websites. The decisions of this HPC be uploaded on the official websites of U.P. State Legal Services Authority, State Government & Hon'ble High Court of Judicature at Allahabad.

- 3- Honouring the wishes of Jail Inmates in respect to release and facilitating transportation on release if necessary:-

The Hon'ble Supreme Court has also ordered that;

"14.--Some prisoner might not be willing to be released in view of their social background and the fear of becoming victim of the deadly virus. In such extra-ordinary cases, the authorities are directed to be considerate to the concerns of the inmates—Appropriate steps shall be taken for transportation of the released inmates of the prisons, if necessary, in view of the curfew and lockdown in some cases."(Emphasis supplied)

Hence, it is hereby directed in compliance of above quoted order that the Jail Superintendent of each Jail shall ascertain such unwillingness for release on the part of each Jail inmate, eligible for release under orders of this HPC in all sincerity & with empathy. The said unwillingness to release under the orders of HPC may either be due to fear of infection of virus or disappearance of social roots by passage of time or extreme old age or they having no place or relative to go or any other such reason. There shall not be forced release of Jail inmates under these orders of HPC. Jail Superintendent shall provide the details of all such prisoners requiring facility of transport to the DLSA and the District Magistrate. The Jail Authorities and District Magistrates of each district shall be responsible for the transportation of Jail inmates as required in any unforeseen contingency. The Jail Superintendent and District Magistrate shall co-ordinate and co-operate in this respect. District Legal Services Authority shall supervise these matters of unwillingness on part of inmates and transportation at local level.

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This direction relating to the ascertainment of willingness to release and arrangements of transportation, if needed, shall also be applicable to the release on interim bail or Parole of prison inmates in compliance of the earlier order of this HPC dated 26.04.2021 henceforth.

4- Additional directions in respect to Testing, Prison Hygiene, Sanitization/Sanitation and treatment etc in prisons:

In addition & in partial repetition of the earlier directions regarding Prevention, Containment & Treatment of Covid-19 in prisons, it is also directed that;

- (a) Regular testing of Jail inmates as well as Officials and staff and other stakeholders for Covid-19 shall be ensured for early Detection, Preventions, Containment & Treatment of Covid-19 in prisons.
- (b) Proper Medical facilities including treatment shall be provided to ailing inmates, officials and staff and other stakeholders.
- (c) All Suitable measures be taken to prevent the transmission of deadly virus amongst inmates of prisons.
- (d) All measures be taken to maintain required level of daily hygiene and sanitation in Jail premises.

5- Strict Compliance of the guidelines issued by Hon'ble Court in Arnesh Kumar Vs State Of Bihar, (2014) 8 SCC 273, Judgement:

In view of the rampant spread of corona virus, the Hon'ble Supreme Court felt the need to reiterate the *Arnesh Kumar (2014) 8 SCC 273*, verdict, in order to limit arrests by police authorities. The Hon'ble Court observed as under;

“—This Court, being the *sentinel on the qui vive* of the fundamental rights, needs to strictly Control and limit the authorities from arresting accused in contravention of guidelines laid down by this Court in *Arnesh Kumar Vs State of Bihar (supra)* during pandemic.”

In compliance of this order, it is reiterated that the dictum of *Arnesh Kumar (supra)* as directed to be complied with and circulated with the earlier directions of this HPC issued in pursuance of meeting of HPC dated 26-04-2021 shall be strictly complied with by the Police and Judicial Authorities and the directions/guidelines issued in the judgement of *Arnesh Kumar (supra)* must be complied in letter and spirit.

We direct the Director of Judicial Training & Research Institute (JTRI), Gomti Nagar, Lucknow to organize sensitization session/sessions of the SSP's and the Chief Judicial Magistrates and /or Magistrates on this subject by virtual mode so that the compliance of the mandate of the Hon'ble Supreme Court be ensured in letter and spirit & with required sensitivity and urgency.

The Director General of Police, Uttar Pradesh (DGP) is directed to file an interim Compliance report within 7 days on the measures and steps taken to ensure compliance of our earlier order in this respect.

The next meeting of High Powered Committee shall be on or before 22-05-2021 as scheduled.”

These directions are directed/intended to be complied immediately by all the concerned.

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It is, therefore, requested your good self to kindly issue necessary directions to all the concerned Authorities/Departments for ensuring the strict compliance of the aforesaid directions issued by the Hon'ble High Powered Committee in letter and spirit.

Yours sincerely
Sd/
(Ashok Kumar)
Member Secretary

Copy forwarded to the following for information and necessary compliance.

- 1- The Private Secretary to the Hon'ble Executive Chairman, UPSLSA /Patron-in-Chief/the Acting Chief Justice, Hon'ble Allahabad High Court.
- 2- All Chairmen/Secretaries, District Legal Services Authorities, U.P.
- 3- The D.G.P. Uttar Pradesh, Lucknow, for ensuring compliance on the part of the police authorities as directed more particularly, the directions contained in the above quoted Para-5 of the Hon'ble High Powered Committee (H.P.C).
- 4- The Director, Judicial Training & Research Institute, Gomtinagar, Lucknow
- 5- The Secretary of the State Monitoring Committee (SMC) for effective implementation of the aforesaid directions issued by HPC.

Sd/
(Ashok Kumar)
Member Secretary