

ITEM NO.1

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SUO MOTU WRIT PETITION (CIVIL) NO.1/2020

IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS

Petitioner(s)

VERSUS

Respondent(s)

(FOR ADMISSION )

Date : 16-03-2020 This petition was taken up today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. K.K. Venugopal, Ld. Attorney General  
Mr. Tushar Mehta, Ld. SG  
Ms. Swati Ghildiyal, Adv.  
Mr. Ankur, Adv.

Mr. Dushyant Dave, Sr. Adv. (A.C.)

By Courts Motion, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

In the last few weeks, the world has witnessed the spread of a communicable respiratory disease called the Novel Corona Virus (COVID-19), caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The outbreak was first identified in Wuhan, Hubei, China in December 2019. On 11<sup>th</sup> March 2020, the World Health Organization declared COVID-19 as a pandemic after noting that COVID-19 has increased 13-fold in countries other than China. Some State Governments has also declared COVID-19 an epidemic, in order to invoke the emergency provisions of the Epidemic Diseases Act, 1897. Currently, over 110 countries have detected persons suffering from COVID-19 in their territories, and approximately 1,67,291 cases of COVID-19 have been

identified across the world, as of now.

In India, 107 persons have contracted COVID-19. According to some studies, the number of COVID-19 cases in India has doubled within a week, and if prompt measures are not taken, the situation might worsen. Medical experts have noted that there are four stages of the contagion of the COVID-19 virus, which are *firstly*, entry of persons carrying the COVID-19 virus into Indian territory, thereby, importing the COVID-19 into India, *secondly*, local spread i.e. spread of the COVID-19 virus from the carrier to his/her kith and kin, *thirdly*, community spread i.e. spread of the COVID-19 virus to the communities in which a carrier of the COVID-19 virus is resident and finally, the epidemic level. It has been stated by medical professionals that whereas many nations have reached the epidemic level (which is the fourth and final stage), India is still at the second stage where the spread is at the local level. Therefore, if prompt measures are taken, it is believed that COVID-19 can be prevented from reaching the third and fourth stages or in any event, minimise the damage. The Government of India and State Governments are taking all possible steps to curb the contagion of the COVID-19 virus.

The Government of India and the respective State Government have also issued several advisories to the citizens, regarding the prevention of the further spread of the COVID-19 virus. One of the suggestions made by the Government of India is to maintain social distancing, which is considered to be the most effective way of stopping the contagion of COVID-19 virus.

While the Government of India advises that social distancing must be maintained to prevent the spread of COVID-19 virus, the bitter truth is that our

prisons are overcrowded, making it difficult for the prisoners to maintain social distancing. There are 1339 prisons in this country, and approximately 4,66,084 inmates inhabit such prisons. According to the National Crime Records Bureau, the occupancy rate of Indian prisons is at 117.6%, and in states such as Uttar Pradesh and Sikkim, the occupancy rate is as high as 176.5% and 157.3% respectively. Like most other viral diseases, the susceptibility of COVID-19 is greater in over-crowded places, mass gatherings, etc. Studies indicate that contagious viruses such as COVID-19 virus proliferate in closed spaces such as prisons. Studies also establish that prison inmates are highly prone to contagious viruses. The rate of ingress and egress in prisons is very high, especially since persons (accused, convicts, detenues etc.) are brought to the prisons on a daily basis. Apart from them, several correctional officers and other prison staff enter the prisons regularly, and so do visitors (kith and kin of prisoners) and lawyers. Therefore, there is a high risk of transmission of COVID-19 virus to the prison inmates. For the reasons mentioned above, our prisons can become fertile breeding grounds for incubation of COVID-19.

We are of the opinion that there is an imminent need to take steps on an urgent basis to prevent the contagion of COVID-19 virus in our prisons. If prisoners are tested positive for the COVID-19 virus, immediate measures have to be taken for their quarantining and medical treatment. We are pleased to note that some State Governments and their Departments of Prisons have already taken preventive measures. For instance, the Director General of Prisons, Kerala has set up isolation cells within prisons across-Kerala. Those suffering with COVID-19 symptoms such as cold and

fever are being moved to these isolation cells. All the new inmates who will be admitted to the prisons in Kerala will be isolated in the isolation cells in the admissions block for six days before permitting their entry into the regular prison cells. Similarly, an isolation ward has been set up in the Tihar Jail, Delhi and all the 17,500 inmates of the said Jail were checked for COVID-19, and it was found that none displayed any symptoms relating to COVID-19. The authorities of the Tihar Jail have also decided that new inmates will be screened and put in different wards for three days. However, we do not have information about the measures taken by the other State Governments in their prisons to prevent the contagion of COVID-19.

For all the above reasons, we consider it appropriate to direct that notices be issued to the Chief Secretaries/Administrators, Home Secretaries, Directors General of all the Prisons and Department of Social Welfare of all the States and the Union Territories, to show cause why directions should not be issued for dealing with the present health crisis arising out of Corona virus (COVID 19) in the country, and further to suggest immediate measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles lodged in the Remand Homes and for protection of their health and welfare.

The respondents shall submit a reply in writing before 20<sup>th</sup> March, 2020. The reply shall contain the particulars of the steps being taken and the relevant data necessary for implementing the measures to prevent the possible spread of the Corona virus among the prisoners/juveniles.

The respondents shall further ensure that a responsible officer of their choice duly authorised to take decision in the matter shall be made available to

this Court on the next date of hearing i.e. 23<sup>rd</sup> March, 2020.

The respondents may first submit their respective written reply and shall appear in Court as and when called upon to do so. They shall submit their respective responses to this Court, learned Attorney General for India, learned Solicitor General of India, and the learned Amicus Curiae.

It is made clear that we may direct such number of parties to appear in the Court as may be found appropriate on all dates of hearing of the matter.

This order shall be communicated through the Advocates-on-Record of each State/Union Territory forthwith.

We appoint Mr. Dushyant Dave, learned Senior Counsel who is present today in the Court, as Amicus Curiae to assist the Court in the present matter.

The Registry is directed to serve the respondents by their emails.

List the matter on 23.03.2020.

(SANJAY KUMAR-II)  
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)  
ASSISTANT REGISTRAR