

4/10/2008

(10)

Report on the visit of Shri Damodar Sarangi, Special Rapporteur NHRC (East Zone-1) to Central Prison Rongyek, Sikkim on 10th and 11th September 2008.

I visited Central Jail Rongyek, on 10.9.08 and 11.9.08 to verify the living conditions of the prisoners and to determine if the Human Rights of the inmates are being duly respected and protected by the prison and other authorities. Shri Yap Tsering Bhutia, senior superintendent of police and prisons, along with Sri Palzor Wongyal Shenger, additional SP prisons, Shri Kamal Tamang, jailor and other prison officers attended to my visit and facilitated my interactions with the prisoners.

2. Prison population

Against a sanctioned capacity for 138 prisoners (118 males and 20 females), 182 prisoners (174 males and 8 females), are lodged in this jail as on 10.9.08. Of them 67 are convicts and 115 are UTPs. Sikkim has four revenue districts but only two jails. The North and West districts have no separate jails and prisoners remanded to custody from these districts are being accommodated in the Central jail. A prison for the West district is under construction. With the commissioning of the same, overcrowding in this prison is expected to ease.

3. Accomodation

The Central Prison is located on a patch of land measuring 26 acres on the slopes of picturesque hills at an altitude of 6200 to 6500 feet in the outskirts of Gangtok. 13 acres of land are within the perimeter walls and the rest lie outside.

There are in all 9 wards in the prison including a separate ward for female prisoners. The total plinth area of these wards is 8819.56 sq.feet. Convicts and UTPs are accommodated in separate wards. Of the 8 female prisoners only one is a convict. Though separate accommodation is available for her in the female ward, she has herself opted to stay with the UTPs, apparently to ward off loneliness. It is however desirable to separate her from the UTPs.

16 staff quarters are available in the prison premises for the accommodation of subordinate staff. One quarter for the jailor is under construction. There is no living accommodation for the rest of the staff members, who commute to the prison from different places in the township. One double storied building with garage has been constructed in the prison complex for temporary resting of the duty personnel.

* The state govt may take early measures for constructing residential accommodation for the remaining staff, particularly the supervising officers, in the prison premises.

4. Staff

The sanctioned and existing strength of staff of this prison are reproduced below.

Sl. no	Name of posts	Sanctioned Strength	Existing Strength
1	Jailor	01	01
2	Sub Jailor	03	02
3	Asst. Sub Jailor	05	04
4	Head Warder	09	21
5	Warder	55	24
6	Warder Driver	03	03
7	Follower	01	01
8	LDC	02	02
9	Jr. Account	-	01

Others

1	Addl.S.P./P	-	01
2	Sr.S.P./P	-	01

Muster Roll Staff-

1	Cooks	-	04
2	Home Guard	-	05

1 post of Sub Jailor, one post of Assistant Sub Jailor, 31 posts of Warders are lying vacant. On the other hand, 12 Head Warders are posted in excess of the sanctioned strength. These Head Warders were earlier working in the police department, and were summarily dismissed for their indisciplined conduct. On reinstatement, they have been posted to the jail as Head Warders against vacancies in the rank of Warders. Posting officers and men with such adverse service records to the prisons may not be quite desirable. Even after taking this excess strength of Head Warders into account, there still remains a vacancy of 19 personnel in the Warders category, which require to be filled up early. No regular institute for induction training of prison staff is available in the state. Those of them who have been inducted from the police department had received routine police training in the beginning of their career, which does not adequately equip them for discharging their duty in correctional institutions. Those recruited by the prison department from the open market were also being trained with the police. The jail authorities have decided to send new recruits and promotees to jail training institutes outside the state for their induction training, from this year onwards. Efforts should also be made to organize periodical refresher courses for the existing staff to sensitise them to the rights of prisoners, their psychological and emotional needs etc. The NHRC has been supporting and sponsoring such courses. The senior superintendent, who is in overall charge of the two jails functioning in the state, may send a

proposal for organizing such a Course for the prison personnel of the state, to the chief coordinator training, NHRC.

Two jailors and two sub jailors have attended vertical interaction courses on prison administration held at Poona, Kolkata and Guwahati between 2005 and 2007. The senior superintendent attended the Asia Pacific Conference of Correctional Administrators, held in Vietnam in 2007.

5. Food

Following is a comparative chart of the diet scale fixed by the govt (In force with effect from 1.6.97) and the scale recommended by the BPR&D in the model prison manual.

Sl. No	Articles	Scale per day	Sl. no	Scale prescribed by the BPR & D	
				Items of diet	Quantity
1	Rice/Atta	500 gms	1	Cereals (including millet)	600g
2	Potatoes/Green Vegetables	466 gms	2	Pulses	100g
3	Masur dal	260 gms	3	Vegetables: a. Green leafy b. Roots & tubers c. Other	250g
4	Salt	058 gms	4	Fish or meat	100g
			5	milk	500ml
			6	Ghee	15g
			7	Groundnut	100g
5	Mustard oil	036 gms	8	Milk	50ml
			9	Curd	100ml
6	Chilies	010 gms	10	Grams (Roasted)	60g
7	Spices	010 gms	11	Jaggery	20g
8	Onion	008 gms	12	Oil	30g
9	Turmeric powder	006 gms	13	Salt	30g
10	Tea	008 gms	14	Tamarind	15g
11	Milk	028 gms	15	Jeera or Tejpata	5g
12	Sugar	028 gms	16	Turmeric	2g
13	Beaten rice	087 gms	17	Corriander	5g
14	Velly gur	014 gms	18	Chillies	5g
15	Meat	72 grams per diet. In an average meat is served twice a month.	19	Onion	25g

16		20	Coffee (or) tea	
17		21	White sugar	50g
18		22	Pepper	3g
19		23	Mustard	2g
20		24	Garlic	2g
21		25	Coconut	1/20 nos

Whereas cereals and pulses are being provided at a scale much higher than the scale recommended in the Model Prison Manual formulated by the BPR&D, the scale prescribed for green vegetables, milk, meat and sugar is considerably less than what has been recommended by the BPR&D. The scale of supply of these items may be considered for up gradation, if necessary by rationalizing the prescribed scale of supply of cereals and pulses.

The daily expenditure on food is approximately Rs57/ per prisoner. The apparently high rate is due to the expenditure on transport of groceries, vegetables etc from Siliguri. The prisoners are served morning tea followed by break fast (bread and jam or Mudi) between 0600 hrs and 0630 hrs. Lunch is served between 0830 hrs and 0930 hrs. Rice, roti, dal and vegetables are served in the lunch. Non vegetarian dish is served only twice a month. Beef/ mutton/ eggs and occasionally fish are served in such dishes. Around 1300 hrs the prisoners are served tea, chana/patato as tiffin. Dinner is served between 1730 hrs to 1830 hrs. Rice, roti, dal and vegetables are served for dinner. The inmates have no major complaint regarding the quality of food, as transpired during my interactions with them.

6. Clothing

On admission, prisoners are supplied with beddings and clothings in the following scale.

	For convicts		For under trial prisoners	
1	Summer	02 blankets & 01 duree	Summer	02 blankets & 01 duree
2	Winter	03 blankets & 01 duree	Winter	03 blankets & 01 duree
3	Foam sleeping mat	01 each	Foam sleeping mat	01 each
4	Pillow	01 each		
5	Convicts uniform	03 pairs annually		

In view of the severity of winter in Sikkim, it is desirable that prisoners are provided with pullovers / jackets as part of their clothings for winter. There is no provision for supplying clothings to undertrial prisoners. As

would be discussed in the course of this report, most of the UTPs lodged in this prison are very poor. The jail authorities may consider issuing at least 2 pairs of dresses to such indigent UTPs in a year. No life is prescribed for clothing and bedding items. The superintendent mentioned that these are replaced on becoming unserviceable. I found some torn bed sheets still in use. It is desirable to prescribe fixed life periods for all clothing and bedding items which should invariably be replaced at the end of such time period. This should however not forbid the superintendent from issuing such items if the same become unserviceable for one reason or the other, before the lapse of the prescribed life period.

7. Sanitation and Hygiene

Ward wise availability of toilets is as follows.

Under trial prisoners block

Sl.no	Ward no	No. of bed	No of toilets
1	Ward no-1	21 beds	1 attached toilet each in all 3 wards
2	Ward no-2	21 beds	
3	Ward no-3	20 beds	
4	Ward no-4	10 beds	Attached toilets in all cells

For ward no 1, 2, 3 there is one structure with 6 toilets & 6 urinals.

Convicts block

Sl.no	Ward no	No. of bed	No of toilets
5	Ward no-5	10 beds	1 attached toilet in each ward
6	Ward no-6	10 beds	
7	Ward no-7	05 beds	Attached toilet in all 5 cells
8	Ward no-8	21 beds	1 attached toilet

For ward no 5, 6, 7 there is one structure with 5 urinals & 4 toilets.

For ward no 8 there is one structure with 5 toilets. All the 4 rooms in the female ward have attached toilets.

The over all ratio of toilets to prisoners is about 1:5 which should appear to be adequate. Their distribution however is uneven. Only one toilet each is available inside 21/20 bedded wards. The prisoners are not allowed to use the toilet blocks outside their wards during night hours. It is therefore considered desirable to provide at least two toilets each inside wards nos. 1, 2, 3 and 8.

Drinking water to prison is supplied from perennial springs, running about 7kms away from the prison. This water is brought through pipelines by the rural development department of the state govt. Diarrhoea is wide spread in Sikkim and its cause is ascribed to

contamination of drinking water. The water supplied from these springs require adequate filtering and disinfection.

The wards and cells were found clean and well maintained. But due to over crowding, some prisoners are being accommodated in the space between raised platforms. It is hoped that with the commissioning of the prison for west district, expected in 2009, overcrowding will be considerably eased. The prisoners are supplied with one lifebuoy soap for bathing and two washing soaps for washing their clothes. No foot wear is supplied to the prisoners, Most are wearing slippers and shoes arranged privately by them. No bath towel has been supplied to any of them. There is a case for providing at least one pair of foot wear annually to the prisoners in the interest of their over all hygiene. Sikkim is almost free from malaria. As such issue of mosquito net has not been felt necessary. Drainage and waste disposal was found to be satisfactory.

8. Health and Hospital

The prison does not have a separate hospital of its own. Prisoners are referred to the local govt hospitals for treatment. Every prisoner is made to undergo medical examination before admission. On receipt from the courts, each prisoner is sent to govt hospital for medical check up and only after such check up he or she is admitted to the wards.

There are five mentally ill prisoners, of whom four are undertrials and one is a convict. Their details are as follows.

Sl. no	Name	Case reference	Date of admission	Stage of trial	Doctors' opinion
1	Dorjee Bhutia	Pakyong PS Case no : 3(1)06 dated 13.1.06 U/s 302 IPC	14.01.06	Examination of prosecution witnesses	A case of Schizophrenia
2	Pradeep Rai	Sadar PS case no 137(11)05 dated 8.11.05 U/s 333/307 IPC	14.11.05	Examination of prosecution witnesses	A case of Schizophrenia
3	Kishen Tamang	Ranipool PS Case no : 37(7)08 dated 7.7.08 U/s307/448 IPC	10.7.08	Examination of prosecution witnesses	A case old of Schizophrenia
4	Parvati Rizal	Pakyong PS Case no : 8(8)07 dated	3.06.08	Examination of prosecution	A case of Dystgymania with

		2.8.07 U/s 324/326 IPC		witnesses	dissociative state.
5	Tshering Lepcha	Temi PS Case no : 4(8)00 dated 8.12.2000 U/s 302 IPC	11.8.2000	Sentenced to life imprisonment	A case of Schizophrenia

The first four are undertrials and were reportedly undergoing psychiatric treatment before commission of the crimes for which they have been arrested. The prison authorities have sent proposals to the state govt for withdrawal of the cases pending against them, on the ground that they were of unsound mind at the time of commission of the crime and not in a position to understand the nature and implications of their actions. The fifth prisoner, Tshering Lepcha has been convicted to life imprisonment. They are being periodically visited by psychiatrists from govt hospitals. The state does not have a sanctioned post of IG for the prisons. The mandatory visits by the IG prison to these patients as required the Mental Health Act 1987, is therefore not feasible. The senior superintendent police and prisons is paying such visits regularly.

There are three Tuberculosis patients. One of them is an undertrial and the other two are convicts. Their details are as follows.

Sl. no	Name	Case reference	Date of admission	Remarks
1	Rajesh Tamang	Pakyong PS case no 26/02 dated 29.11.06 U/s 147/149/427/394/506 IPC	5.12.06	Examination of prosecution witnesses.
2	Ajai Rai	G.R case no 234/2007 U/s 379/34 IPC	11.10.07	Convicted to 1 year imprisonment and fine of Rs 500/-
3	Bhola Ghosh	S.T case no 08/2006 U/s 304 Part II IPC	18.3.06	RI for 5 years + fine of Rs 5000/-

All of them are under going treatment from S.T.N.M hospital Gangtok.

A medical officer visits the prison once in a fortnight and screens all sick prisoners. Sick prisoners are sent to govt hospitals under proper escort for treatment on the recommendations of the medical officer.

A proposal has been submitted to the govt for appointment of a permanent M.O. for the prison. In view of the distance of the prison from Gangtok town and in view of the fact that every prisoner before admission has to undergo medical examination, it is desirable to appoint an M.O. exclusively for the prison. This may not cost must to the

exchequer considering the fact that money now spent on transport and escort of the prisoners from the prison to the hospitals in Gangtok for medical check up and back, will be saved following such appointment.

9. Custodial death

Convict Rupnarayan Pradhan, aged about 64, died in custody in this prison on 14.4.07. He was sent to STNM hospital on 13.4.07 morning for medical treatment, but died the same night in the prison on return from the hospital. As per the jail authorities, he was suffering from gout, hypertension and severe anemia. This prisoner was admitted on 28.3.07 and had undergone medical examinations and found 'clinically fit'. He died within a fortnight of his admission in this prison. There is nothing in the medical examination report to remotely suggest that he was terminally ill. He was sent to STNM hospital for treatment on 5.4.07 where he was diagnosed for Gouty Arthritis, and sent back with a prescription and advice to report for treatment on 16.4.07.

If his condition was so serious on 13.4.07 that culminated in his death the same night, it is not understood, why he was not admitted in the hospital and returned to the prison. As per the PM report, the cause of death is severe Erosive Gastritis with GI bleeding. Gouty arthritis is not known to cause erosive gastritis. Anjeneya Kumar Singh SDM, HQ who held that the death was due to disease and there is no foul play. He also did not find any negligence on the part of the jail authorities and held that the subject was sent for treatment immediately.

From the circumstances of the case it does not appear that the disease was properly diagnosed and treated.

This case is presently being examined by the Commission (Case no 3/21/1/07 JCD). All connected reports have been sent to the NHRC on 29.6.2007. The Commission may consider the above points before final disposal of the case.

10. Jail industry

It is heartening to note that after the present SSP took charge, a number of vocational/industrial units like i) Carpentry, ii) Tailoring, iii) Dairy, iv) Goatery, v) Piggery, vi) Handicrafts, vii) Knitting, viii)-Envelope making, ix) Orchids and floriculture, x) Mushrooms and vegetable cultivation, have been set up inside the prison, utilizing funds allocated under the modernization scheme.

Until 9.9.08, a sum of Rs 4, 21, 490/- (four lakh twenty one thousand four hundred and ninety only) has been earned as sale proceeds from these units. A sale counter has been opened inside the prison for the purpose.

The state govt, under their notification no 51/ Home/ 99 dated 19.8.99 have fixed the wages for skilled and unskilled labour respectively, at Rs 15/- and Rs 12/- per diem. Considering the cost of living in Sikkim, these rates appear to be inadequate. In all 56 prisoners

are employed in these units. Some under trials have also volunteered to work in these units. They have been permitted to do so and are being paid wages for their labour. Some prisoners have earned upto Rs 400/ to Rs450/ in a month.

11. Undertrial prisoners

There are 115 UTPs in this prison as on 9.9.08. Seven of them have been granted bail but are still languishing in the prison as they have not been able to furnish surety. The SSP informed that some courts in the state are reluctant to accept bail bonds unless the sureties are either govt servants or are owning more than 5 acres of land. One of the reasons for taking such a view is that the local laws do not permit confiscation of land of any one whose holding is less than 5 acres. The other reason for fixing such harsh norms is that many of the accused are from Nepal and from other parts of India and it is difficult to re arrest them in the event of their jumping bail. From the Human Rights point of view such a stand is difficult to support.

Many of the UTPs are confined in prison for more than 3 years. They are listed below.

Sl.no	Name of prisoner	Date of admission	PS case no with sec	Court case no	Name of Court	Remand /trial	Date of production
1	Mamta Mahanto	31.12.04	Chungthang PS case no. 6(12)04 Dt 28.12.04 U/s 302/201/34 IPC	S.T case no 8/05	S.J.& EN	Trial/Examination of PWs	18.9.08
2	Ranjit Kumar Halder	24.3.05	Chungthang PS case no. 6/04 Dt 28.12.04 U/s 302/201/34 IPC	S.T case no 8/05	S.J.& EN	Trial/Examination of PWs	18.9.08
3	Rajendranath Gharai	20.1.05	Sadar PS case no 04(1)05U/s 363/364/365/302/301 IPC	S.T case no 7/05	S.J.& EN	Trial/Examination of PWs	19.9.08
4	Kishore Thappa	1.10.03	Sadar PS case no. 119/03 U/s302/34 IPC	S.T case no.9/04	S.J.& EN	Trial/Examination of PWs	17.9.08
5	Damber Bahadur Chhetri	1.10.03	Sadar PS case no. 119/03 U/s302/34 IPC	S.T case no.9/04	S.J.& EN	Trial/Examination of PWs	17.9.08
6	Ghanashyam Chhetri	1.7.05	Singtam PS case no 25/05 dt.26.6.06 U/s302/ IPC	S.t case no 24/05	S.J.& EN	Trial/Examination of PWs	12.9.08
7	Ganesh Bahadur Chhetri	1.7.05	Singtam PS case no 25/05 dt.26.6.06 U/s302/34 IPC	S.t case no 24/05	S.J.& EN	Trial/Examination of PWs	12.9.08
8	Dhirendra Boro	20.12.03	C.I.D PS case no.	S.T(Pota) case no 1 of 2004	S.J POTA	Judgement	17.9.08
9	Hari Ghimirey	16.8.05	Sadar Ps case no 111/05 dt 5.8.05	S.t case no 30/05	S.J.& EN	Trial/Examination	12.9.08

			U/s 365/376/34IPc r/w sec 14F.Act 1946			n of PWs	
10	Budhiman Tamang	16.8.05	Sadar Ps case no 111/05 dt 5.8.05 U/s 365/376/34IPc r/w sec 14F.Act 1946	S.t case no 30/05	S.J.& EN	Trial/ Examinatio n of PWs	12.9.08

Their cases should be brought to the notice of the respective courts by the SSP with a request for early disposal. During my interactions with the prisoners it transpired that most of them are very poor and unable to engage counsels in their defence. It is disturbing to find that almost 90% of the prisoners have requested for legal aid in the form of govt counsels to defend them. Many UTPs complained about the indifference of the lawyers provided to them under the legal aid scheme. Some complained that such lawyers are demanding illegal gratification from them and their family members. Some specific complaints are discussed in Para 17 of this report. The SSP may like to bring this matter to the notice of the Legal Aid Authority of the state.

12. Leave / Parole / Premature Release

Convicts are allowed to avail leave up to 30 days to attend marriages/funerals etc in the family subject to prior verification by the police. Such permission should also be granted to long confined UTPs with the permission of the court. Remission upto five months in a year are being granted to prisoners in the deserving cases. There is some confusion regarding the entitlement to remission of prisoners under going life sentence. Till the year 2005 they were being granted such remissions. But due to an erroneous interpretation of the guidelines issued by the Commission on premature release in case no 233/10/97-98, this practice has been discontinued. Some life convicts raised this matter during my interactions with them. I have explained to the SSP that the NHRC guidelines do not even remotely suggest that life convicts should not be granted remission. In fact the entire exercise by the NHRC was to facilitate the release of life convicts undergoing imprisonment for indefinite periods. The SSP should immediately restore the system of grant of remissions in deserving cases to life convicts. He should also examine the feasibility of granting them retrospectively the remission they would have otherwise earned between 2005 to 2007.

There are as many as 30 life convicts in this prison which is unusually high compared to the prison population. Three of them have served more than 10 years in the prisons. Their particulars are given below.

Sl.no	Name/Parentage residence	Section with case no	Date of admission	Date of conviction	Sentence + fine	Remark
1	Budhi lal Subba son of Singh Prasad Subba. Resident of Sakyong, Amlung Busty. West Sikkim.	Kaluk P.s case no 22(9)97u/s 302/380 IPC ST case no 24/98 S.J.S/W at Namchi	28. 10. 97	21.10,2000	Life + fine of Rs15000/- i/d RI for 9 (nine) months	
2	Umesh Thakur, son of Chabilai Thakur, R/o Jagat Puri Mahari Gaon, District- Siwan, Bihar	Sadar Ps case no 81(6)97u/s 498A/302 IPC ST case no 17/98 S.J.Spl. Div at Gangtok	21. 6. 97	6. 6. 2000	Life	Upheld by High Court appeal at Supreme Court
3	Dil Bahadur Tamang son of Late Mangal Singh Tamang R/o Rangpo Bazar, East Sikkim.	Sadar Ps case no 164(9)96 u/s 452/302IPC ST case no 4/98 S.J.E/N at Gangtok convicted u/s 302/449 IPC	22. 9. 96	3. 9. 2001	Life	Fine set aside by High Court

All of them have been convicted for murder and in view of the provisions of section 433A of the Crpc have not yet become eligible for consideration for premature release.

The state govt have constituted a state sentence review board on 25/4/2007 with the following members to consider the premature release of convicted prisoners.

- | | |
|---|--------------------|
| i) Principal Secretary, Home Department | -Chairman |
| ii) Addl. Secretary/Joint Secretary, Law Department | - Member |
| iii) Deputy Inspector of Police (range) | -Member |
| iv) Sr. Supdtt. of Police/Prisons, | - Member Secretary |

The state govt have also spelt out the eligibility criteria for premature release, which are more or less in line with the recommendations of the Commission.

13. Education

The prison authorities have initiated measures for giving elementary informal education to the inmates. The help of educated prisoners and prison staff is being enlisted for the purpose. Life convicts Syam Kumar Rai and Bikash Chettri have passed class X and class XII respectively from the prison. Not all prisoners are however interested in taking such instructions. Some of them find it profitable to work in the various vocational units to earn wages. There is a library and a reading room which the prisoners are free to use.

14. Recreation

Arrangements for playing volleyball and badminton are available. Facilities for indoor games like ludo, chess and carom are also available. Colour televisions have been provided in all the wards of the prison. On holidays, movies through DVD are also shown and during working hours music and songs are blared through loud speakers. One 'Sarva Dharma Mandir' has been constructed in the premises of the prison for use by prisoners of different religious faiths.

15. Interview-

Each prisoner is allowed to meet visitors once a week and the time allotted for each interview is between 30 to 40 minutes. Besides, the inmates are allowed interviews with their lawyers and are also allowed to partake meal brought by their relatives. Permission to inmates for taking food and beverages brought by visitors in fraught with hazards. There have been cases where poisoned/ adulterated food has been deliberately passed on to the prisoners to harm them, in some prisons in the country. Utter care should be taken before granting such permissions. Convict prisoners should not ordinarily be permitted access to such meals. There was no complaint regarding the facilities available in the prison for interviews with relatives and lawyers.

16. Board of visitors

The state govt have constituted a board of visitors on 13.3.07 with the following members.

Official members

- | | |
|--|-------------------|
| a) District Magistrate | -Chairman |
| b) Chief Medical Officer of the District | -Member |
| c) Joint Director, Agriculture Department | -Member |
| d) Divisional Engineer, Buildings Department | -Member |
| e) Superintendent of Prisons | -Member Secretary |

Non official Members

- a) Shri Kunga Zanpo, Hon'ble MLA, Assam Lingzey - Member
 b) Shri Purba Tamang, Resident of Rangyek -Member

As per the govt notification the board of visitors is required to meet at least twice in a year and it has been left to the discretions of the Chairman of the board of visitors to make monthly roster of visits to be paid by one member of the board to the prison in consultation with the superintendent of the prison. It is desirable that this arrangement should be made mandatory. Since its inception the board has met twice i.e. on 9.5.2007 and on 2.8.08. There is no evidence of any individual member or group of members paying any visit to the prison in addition to the above meetings.

In the minutes of the meeting of the Board dated 9.5.07, it was recommended that a doctor with an attendant should be posted to the prison immediately. The CMO, who is a member of the board promised to initiate a proposal in this regard. From the minutes of the board meeting dated 2.8.2008, it would appear that the proposal is yet to receive approval of the govt. As has been explained at para 8 above the posting of a regular M.O. to the prison is absolutely necessary and the state govt may sanction the post at their earliest.

17. Interactions with prisonersi) Convict Milan Digal.

He was working as an ASI in the state police. He was charged with murder in ST Case no 3/2000. He was acquitted by the Sessions Court. The state govt went in appeal and he was convicted to life imprisonment by the High Court, and was readmitted to the prison on 9.8.05. He has filed an SLP in the Supreme Court. Pleads that he is innocent and the only bread owner of his family and requests for early disposal of his appeal petition. SSP may consider bringing the matter to the notice of the Registrar through appropriate channel.

ii) Convict Dillip Kumar Roy

He is a Bangladeshi National. He joined the freedom struggle of Bangladesh in 1971. In 1975 he was enlisted in the Bangladesh Army, which he served till his retirement in 1995. He was running a grocery shop in Dhaka after his retirement. Many of his relatives live in India. In July 2003 he had come to Siliguri with valid passport and visa to meet some of his friends. He stayed at Siliguri from 25.7.03 and 26.7.03. On 27.7.03, one Suresh Sarkar of Siliguri, with whom he had casual acquaintance persuaded him to visit Sikkim for site seeing. Suresh asked him to wait at a tea shop in Tadung and went to visit his sister. Suresh never returned. The local people produced him before Tadung police. The police informed the local military authorities and in collusion with them

planted incriminating documents on him and branded him as an ISI agent. He was convicted to 10 years RI "merely on suspicious without any evidence". He has appealed against the order on 21.1.07. He has been provided with the services of a lawyer, namely Sri N. Rai at govt cost. His appeal is yet to be heard. He had left behind his old mother (aged 94 years), wife and two school going children, in Bangladesh. He has no information regarding their welfare. He is a Hindu and many of his relatives live in India. He can not think of spying against India. He pleads for early and judicious disposal of his appeal petition. The SSP may verify the present position of his appeal petition.

iii) UTP Rajendranath Garai.

He was serving in the Indian Army since 1986. On 4th January 2005 Mr Rajiv Kumar Tomar, 2 I/C of his unit, sent a sepoy to the army barbers' shop (where he was cutting hairs of the jawans) to inform him that his mother is very sick. When he met the 2 I/C to verify the information, he was advised to immediately proceed on one month leave to attend to his mother. The 2 I/C paid him Rs 500/- from his own pocket to meet his travelling expenses. Reaching home he found his mother hail and hearty. On 9th January when he was still in his home town in West Bengal, he received a call from the said 2 I/C informing him that Gangtok police is looking for him in connection with a rape and murder case and that he should immediately report at the Army unit at Barrackpur. He complied with the order and was formally taken to custody by the military police. In custody he was severely tortured and forced to sign some papers in an effort to link him to the rape and murder of one Smt Indira Sharma. He was later handed over to Gangtok police and thereafter sent to judicial custody. While in JC, he retired from service on superannuation, but his pension has not been settled till to day. He has not received a penny from the army, as other retirement benefits. His wife and 10 years' old child are staying back home. He has applied to the military authorities repeatedly through the jail superintendent for his dues, without any result. He claims to be innocent and accuses his seniors, who according to him could be responsible for the crime, of conspiring to implicate him in the case to mislead the court.

While in jail he was cheated by one Debasis Mukharjee, co-inmate who took money from his wife to get him released on bail. He further claimed that his lawyer, Shri N.K. Rai also took Rs10, 000 from him to expedite hearing in the case.

The case against him is subjudice. At this stage the jail authorities could only request the court for early disposal of his case as he has already spent more than three years in prison waiting for the trial. As regards his pensionary benefits, the same could have been withheld in view of the criminal charges pressed against him. But he is entitled to know, in what circumstances the same has been held up. The complaint against the defence lawyer are serious. While the subject

mentioned them orally, his written petition is silent about it. The superintendent may verify the bonafides of the complaint before taking up the matter with the legal aid authority.

iv) UTP Pradip Roy

He is in custody since 14.11.05 in connection with Sadar Ps case no 137/07 dated 8.11.05 u/s 333/307 IPC. There has not been much progress in the trial of the case. The advocate provided to him does not attend court on the dates of hearing. He had attempted to commit suicide on 1.8.2008 due to utter frustration. It appears he was arrested for assaulting public servants. Trial of a case of this nature should not ordinarily take so long for disposal. The superintendent may verify the exact position of his case.

v) UTP Dharendra Baro

He is in prison since 20.12.03 in ST (POTA) case no 1/2004. In his case argument was over as far back as on 23.6.08, but judgment has not yet been delivered. He pleads that as per the legal provisions, judgment should be delivered within 14 days of argument and pleads for expeditious disposal of his case. 3.10.2008 has been fixed for judgment. It is hoped that judgement will be delivered on that date.

vi) UTP Ganesh Chetri and UTP Ghanashyam Chetri

They are both accused of Singtam Ps case no 25/05 dt 26.6.05 u/s 302/34 IPC. Their trial, pendings in the sessions court, is making no headway due to the non appearance of the forensic expert from Kolkata. The next day for hearing is fixed for 12.9.08. In case the witness fails to appear, the superintendent may consider bringing the matter to the notice of his controlling officer.

vii) Convict Nimzing Lepcha

He was admitted to prison on 11.12.2002 in connection with Gyalzing Ps case no 30(11) 02 dated 26.11.02 u/s 457/302/392/34 IPC. He has been sentenced to life imprisonment. He wanted to know the rules and guidelines regarding remission. The prison authorities had discontinued the grant of remission to life convicts since 2005, due to some confusion regarding the implications of the NHRC guidelines on premature release. I have already advised the superintendent to continue granting such remissions to life convicts subject to their good conduct.

viii) Convict Shyam Kumar Roy

He was convicted to life imprisonment on 19.4.2001 in Temi Ps case no 18(11) 99 u/s 302/34 IPC. He was admitted to prison on 23.11.99 and has already served 9 years in prison. He also wanted to know about the rules on Remission. I have explained to the

superintendent that life convicts are as much entitled to get remissions as are other prisoners, subject to their good conduct.

ix) Convict Umesh Thakur

He was sentenced to life imprisonment on 6. 6. 2000, in Sadar case no 81(6) 97 u/s, 498 A/302 IPC. He was admitted to prison on 21.6.97 and has already served 11 years. He is engaged as a barber for the prisoners and is being paid a paltry wage of Rs 15/- per day. Prior to the joining of the present SSP he was not being paid any wage. He is the only barber and his workload is quite heavy. Requests for enhancement of his wage. It appears, he is being paid at the rate prescribed by the govt for skilled labour. I have already recommended for the enhancement of the rates of wages for both skilled and unskilled labourers.

x) UTP Bhabani Shankar Chetri

He is sixty years old. He was arrested in Pakyong Ps case no 8(4) 08 u/s 376 IPC and section 3 of SC& ST (Prevention of Atrocities) Act 1989. He is in judicial custody since 28.4.08. The police have not submitted charge sheet in the case though more than four months have past since his arrest. He was granted bail, but has not been able to find sureties. He claims to be innocent and a victim of village politics .His grievances may be brought to the notice of DGP Sikkim with a request for early completion of investigation.

xi) UTP Purna Bahadur Tamang

He was accused of Singtam Ps case no 2/07 u/s 3.1.07 u/s 489(B, C) IPC and is admitted in this prison since 16.1.07. The police have not submitted charge sheet in the case yet. He has been bailed out, but has not been able to find sureties. His relatives do not know about his arrest. The superintendent may take immediate steps for informing his relatives.

xii) UTP Shyam Chetri

He was admitted to prison on 28.2.08, accused of Sadar Ps case no 25/08 dated 24.2.08 u/s 448/427/34 IPC and 140 of the Electricity Act. He too has been granted bail but has not been able to find surely.

xiii) UTP Nirmal Biswakarma

He was admitted to prison on 22.8.08 in connection with Sadar Ps case no 164(12)05 dated 21.12.05 u/s 279/338 IPC. Bail has been granted but he has not been able to find sureties. The offences against him areailable. He could perhaps have been released on his personal bond as per the provisions of section 436 (A) of the Crpc.

xiv) UTP Tashi Lepcha

He is in jail since 31.7.08 in connection with Chungthang Ps case no 4(7) 08 u/s 308 IPC. He too has been granted bail but has not been able to find sureties.

18. General

The living conditions in the prison were found to be quite satisfactory.

ii) The jail authorities deserve credit for raising a number of industrial / vocational units for effective engagement of prisoners and enabling them to earn some wage.

iii) Many prisoners expressed their grievances over the slow progress of investigation, trial and hearing of appeals in cases pending against them. There are a number of prisoners, who though granted bail by the courts are still languishing in prison due to their failure to find sureties. Most prisoners lodged in this prison are extremely poor. Almost 90% of them have not been able to engage lawyers in their defence and have prayed for legal aid. Many of the prisoners complained of indifference on the part of the lawyers provided to them by the govt. One of them complained that his lawyer has demanded and received illegal gratifications from him. The superintendent may further examine them to verify the bonafides of these allegations before taking up the matter with the legal aid committee.

iv) Night latrines provided in the wards are inadequate. Dormitories with 20/21 beds should be provided with at least two latrines inside the wards.

v) Two of the cells do not have raised platforms which should be provided early.

vi) The lone convict woman prisoner presently lodged with under trials should be separated from them.

vii) Life convicts should also be given remission based on their good conduct.

viii) There is a case for enhancement of the wages of prisoners working in industrial/vocational units.

ix) Maximum life for uniforms, beddings etc should be prescribed. Supplying of wearing appears to indigent UTPs should also be considered.

x) A Medical Officer and an assistant should be sanctioned for the prison without further delay.


Damodar Sarangi

27/10/08