

Visit Report

Smt. Jyotika Kalra, Hon'ble Member National Human Rights Commission of Central Prison Cherlapalli, Telangana on 16-17/01/2019

To guarantee protection of human rights as mentioned in section 12 (c) and 12 (J) of the Protection of Human Rights Act 1993, Hon'ble Member Smt. Jyotika Kalra visited Central Prison Cherlapalli, Medchal, District Telangana on 16-17/01/2019. This Jail was particularly selected as in one of the complaint before the Hon'ble Member, an inmate had died in the jail and was HIV/ AIDS positive. Member was assisted by Sh. I. R. Kurillose, Dy. SP from the Investigation Division of the Commission.

During the interaction with IG Prisons, A. Narsimha, DIG Prisons, A. Saidaiah, Jail Supdt., Member was introduced to the various functions of the Central Prison Cherlapalli. Member was taken around jail premises, living barrack of under trial prisoners, convict prisoners, Jail Hospital, Mulakat Hall, training institutional area of the jail etc. It was informed that female inmates and children with mother inmates are not lodged in the jail.



During the visit, the prisoners interacted freely with the Hon'ble Member and some of them even submitted their written grievances concerning right to be released on Parole, Appeals not being effectively heard, concurrent and consecutive running of sentence etc., the details have been explained in the following paras.

Jail wise visit is as follows:-

A. Central Prison Cherlapalli

This prison is established in the year 2000 in an area of 117.13 Acres with a prisoner's capacity for 1980. The present strength of the prisoners is 1799. The total staff strength is 289 Nos. and actual staff strength is 258 Nos., a deficiency of 31 staff. (Inspection format of Jail is enclosed as **Annexure-A1**)

.. **Observation :**

The Central Prison Cherlapalli is maintained properly however, there is a deficiency of 31 prison staff in the prison which affects the efficiency & morale of the staff.

i. **Recommendation :**

DG Prisons, Govt. of Telangana be directed to fill up the vacancies of the jail staff at the earliest.

Prison Hospital : Central Prison, Hospital Unit, Cherlapalli is named as Sanjeevani. There are three doctors (two men and one woman) posted in the jail hospital along with four MNO, one lab technician and two ICTC staff (Integrated Counseling and Testing Centre).

The prison hospital is having 50 beds and daily average of OPD patients is around 250 prisoners. The medical officer intimated that four prisoners were suffering from heart disease and one prisoner from cancer. There were 34 prisoners suffering from HIV/AIDS disease. Primary treatment to inmates is given in the jail hospital & for specialized treatment prisoners are referred to referral hospital. General Cleanliness of the hospital of the prison was found good.



ii. **Observation:**

Hon'ble Member interacted with the prisoners who were just admitted in Jail and were waiting for their primary health screening. The interview of the prisoners with the counselors regarding HIV was also thoroughly observed; the medical examination Form of inmates was also checked. It was found that an apparently filled-up Form had many blank columns (*Health Screening form is enclosed as Annexure-A2*). This Form remains incomplete even after the receipt of pathological reports because the tests reports conducted are noted in a separate register subsequently. As such, this Form itself doesn't reveal the medical condition of the inmates, i.e. the status of HIV/TB/Heart problem/ blood sugar etc. (which otherwise is available with the Jail Staff).

During the interaction with the counselor on HIV, it was found that the inmates were not questioned about the MSM (Men who have Sex with Men). The question being asked is only about sexual intercourse. The inmate would not answer about MSM because sexual intercourse would always be inferred as sex between man and women. The Form as prescribed by The National AIDS Control Organization (N A C O) was



also lacking in this matter. It was also informed by the jail doctors that 70-80 % of HIV is result of MSM, even otherwise, within jail, the inmates are likely to be affected by MSM only. It was also found that HIV test is only done at the time of entry in jail and the same is not repeated until it is medically required for the patient. The window period of AIDS is around six weeks to six months, if no HIV/AIDS tests would be conducted of the prisoner after six months, the cases of HIV /AIDS would not be detected. (*Data Form for Prison/ Population is enclosed as Annexure-A3*)

ii. **Recommendation:**

DG Prisons, Govt. of Telangana is directed to instruct jail officials (and report within six weeks to the Commission).

1. To complete initial Health Screening Form in the jail at two stages. First Stage, fill the name and other available details of the individual and in the Second Stage, the remaining columns be filled, after the receipt of pathological examination reports of the inmates,
2. In every six months, the inmate prisoner should be screened for the HIV/AIDS test so that the possibility of spreading of this disease can be controlled.
3. Specific counselling of inmates be conducted on MSM.

Mental Illness: No mentally sick inmates including seizure disorders are lodged in the jail as on 16/01/2019. It is further intimated that there is no inmate suffering from severe psychiatric illness lodged in the jail.

In the hospital, One patient namely **Mohd. Yonus** interacted with the Member and submitted application. (*Application of Mohd. Yonus (Srl No. D-1) is enclosed at PART:D*).

The application revealed that :

He was admitted in the prison on 22/04/2016 in SC No. 511/2014 u/s 22 (c) 23(c) of NDPS Act and sentenced to go RI for 10 years for the offences under the section. He submitted that as per the Government Rules, convicts of NDPS are not entitle for Parole, as such he is languishing in jail, without Parole.

iii. Observation:

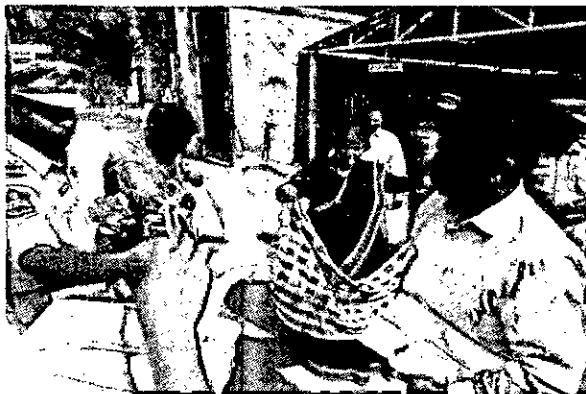
Hon'ble Member is of the view, that non- availability of right to seek Parole, is a Human Right violation of the convict of NDPS cases. When a convict of serious crime such as Murder & Rape etc. can be released on Parole, why can't a NDPS convict be released on Parole. The Rule should be amended to make available right of Parole to NDPS convict also. The right of the Executive would still stand protected for the reason that discretion to grant parole or not to grant parole would still with the Executive.

iii. Recommendation:

Chief Secretary, Govt. of Telangana to reconsider the case of Mohd. Yunus and afford him right of being considered for Parole, in future other convicts of NDPS cases be also ensured this right.

Visit to Factory : The education is imparted under Vidyadaana Yojana through BR Ambedkar Open University and Vocational training and Work under the mission of Elimination of Poverty in Municipal Area, National Academy of Constructions and Factories were undertaken. For spiritual development meditation classes through Ramakrishna Math and for recreation sports (indoor and outdoor) and TV were provided. Three canteens were running under jail premises.

iv. Observation



It came to the notice of the Hon'ble Member that there were undue delays for procurement of raw material required for manufacturing of the goods due to lengthy office procedures. As a result of the same, Jail factory fails to deliver the order within the time schedule. It was reported that the wages of skilled workers in jail is Rs. 50 and semi skilled

worker is Rs. 30/-. The 50 % of wages are transferred through bank account and the remaining 50 % is given to prisoner private cash account. (*Expenditure sheet is enclosed as **Annexure-A4***)

iv. Recommendation :

The DG Prison, Govt. of Telangana be directed to simplify the procedure of procuring raw material for jail factory. To increase the present wages of skilled workers and semi skilled workers in the jail as the rate of wages was fixed in the year 2010.

The Condition of the Under Trials

The jail report shows the following figures for the period of stay of under trials as on 16/01/2019.

Detention Period	Men	Women
Upto 3 months	637	NA
3-6 months	126	NA
6-12 months	98	NA
1-2 years	36	NA
2-3 years	4	NA
3-5 years	Nil	NA
Above 5 years	NA	NA

The report further reveals that there is no under trial who has been granted bail but unable to seek release because of failure to arrange sureties.

During interaction with the inmates a complaint was received from convict- **Narsimha** regarding three different cases – First case, No. 519/16 u/s 307 IPC sentenced to undergo RI for three years, Second case, No. 521/16 u/s 307, 384 IPC sentenced to undergo imprisonment for two years and Third case No. 527/16 u/s 307 IPC sentenced to undergo imprisonment for period of three years. (*Application of Narsimha (Srl No.D2) is enclosed at PART:D*). He informed that his sentences awarded under a different cases is running consecutively and when the jail authorities were asked they showed one order of the District Judge, which reveals that District Judge cannot order for concurrent or consecutive running of sentence when the sentences are in independent case. (*Order of Principal Junior Civil Judge is enclosed as Annexure-A5*)

Some inmates namely **Vijay Hanuman** & A. Prasanna Kumar (*Srl. No. D3*), **Potham Jagannadham** (*Srl. No. D4*), **Amos Thamong** (*Srl. No. D5*), **Amer Mohammed Jamal+1** (*Srl. No. D6*) (*Applications of above inmates are enclosed at PART:D*) made a complaint regarding ineffective follow-up of their

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Appeals in the High Court. They were also not satisfied by the Legal aid counsels, pursuing their cases. Jail Authority also confirmed that legal aid provided to the under trails/ convicts is not satisfactory.

Hon'ble Member also interacted with the old age prisoner namely Kistappa and Syed Khan who appeared to be at the age of 80 and 72 respectively, but their age was noted as 60 and 55 respectively in records. They were suffering from various ailments.

v. Observation :

1. On perusal of the relevant provision it has been found that section 427(1) Cr.PC. deals with the concurrent or consecutive running of sentence. It gives the discretion to the court to direct the concurrent running of sentence in case a person is already undergoing sentence of imprisonment.
2. Poor convicts are suffering due to non availability of competent lawyers, especially at Appeal Stage.
3. The system for determining age of the elderly convicts is missing.

v. Recommendation:

- 1) **Chief Justice High Court of Telangana :** May direct the Magistrate to enquire from the accused whether he is undergoing any sentence, if so , specify whether this sentence would run concurrently or not.
- 2) **DG, Prison, Govt. of Telangana:** may be directed to provide senior lawyers from the District Legal Aid to deal with the convicts who have been booked for offences like murder, rape etc.
- 3) **DG, Prison, Govt. of Telangana :** Develop a mechanism of determination of age of very old inmates, if on determination, their age is found to be 80 or more, such aged inmates be considered by Sentence Review Board for premature release.

Custodial Death :

The annual statement of the custodial death for the last three preceding years reveals that in the year 2016 total of 10 deaths in which 8 no. of natural death and 02 No. of suicide by hanging were reported. In the year 2017 two natural deaths and in the year 2018 one natural death has been reported. Every custodial death cases have been investigated and most of the cases, prisoner died due to ill health under the impact of their incarnation. However, special care is being taken for depressed prisoners. Counseling sessions are conducted for prevention of suicides. As a check and safe guards against suicide psychological profile of the prisoner through psychologist were

introduced. In the year 2016, 2017 and 2018 one prisoner each were escaped from the police custody.

Kitchen :

Member visited kitchen and found the quality of food to be excellent. The menu to be served was displayed, the stock of the raw material etc. was also displayed. Kitchen was also equipped with modern machinery. Prisoners were also found making items like namkeen, bread, biscuits etc. The bakery item freshly prepared were tasted and found to be good. The convicts which were looking after the kitchen were found to be very much involved and concerned with the cooking in the Kitchen.



Interviews of the prisoners :

Around 3000 requests have been received per month and all the requests were being attended. Interviews over phone through glass pane one to one for under trials has been provided.

No. of Visits / Inspections by Judges and the other officers in the last one year

As per report, judicial authorities visit on monthly basis and non-judicial authorities visited 20 times during last one year.

Involvement of NGOs and social activist in the prison activities

As per the document provided, the board of visitors was constituted on 01/03/2016 for a period of two years. The suggestions made by the board of visitors are implemented. However, after expiry of the tenure of board of visitors the new board was not set up as on 16/01/2019.

On verification of the jail records, it was found that the amount of Rs. 3.46 Crore is pending towards electricity and water charges. It also came to notice that 1.18 Crore worth bills are pending as on 31/12/2018 to different agencies, including contractors. (*Expenditure sheet is enclosed as Annexure-A6*)

vi. Recommendation :

DG, Prison, Govt. of Telangana to clear all the pending dues of Central Prison, Cherlapalli

vii. **General Recommendations:**

During the visit Member noticed the following which required urgent intervention:-

1. **DG, Prison, Govt. of Telangana:** The board of visitors be constituted whose term has expired on 01/03/2018 and to clear all the pending dues of Central Prison, Cherlapalli.
2. **Chief Secretary, Govt. of Telangana:** May be directed to take appropriate steps to release Pakistan National Prisoner Sher Ali Keshwani @ Akbar Ali Shammani S/o Kasam from Prison and submit compliance report.

B. Petrol Pumps run by Prisons

Hon'ble Member, visited two Petrol Pumps run by the prison. The prison department is running 20 petrol pumps in different parts of Telangana. Many of the released prisoners are appointed in these petrol pumps for their rehabilitation. Some inmates of the Jail are also working at the Petrol Pumps.

The jail products such as Namkeens, Biscuits, Bed Sheet, Mat, Candles, Bags, etc. were sold through different franchisees all over the State.

C. Special Prison for Women, Hyderabad,

Total strength of women prisoners is 231 in which 100 convicts, 98 under trials, 03 foreign convicts, 04 foreign under trials, 26 detainees and 16 children. During interaction with the inmates they stated that they are happy with the facilities available in the jail and did not raise any grievances. Prisoners were also found making weaving items such as bed sheets, pillow covers, bags, foot mat etc. The lodging area was very clean and all basic facilities were provided.



D. Beggar Home, Hyderabad

Hyderabad is declared as non-begging area. Prison department of Telangana is running a Beggar Home in Hyderabad. The volunteers deputed by the prison department picked up the beggars from the streets of Hyderabad and provided shelter in the beggar homes. Once the relatives of the beggars were identified, the beggars will be handed over to the relatives. The lodging area was very clean and all basic facilities were provided.



E. Bharosa, Support Centre for Women and Children, Hyderabad.

Bharosa is an initiative of Hyderabad City Police, a support centre to provide the round the clock support to women and children who are the victims of violence. Their main aim is to reduce trauma and re-victimization of clients affected sexual abuse and severe domestic violence by providing police and prosecution, medical, legal, psycho therapeutic counseling and rehabilitation services. During interaction with staff of Bharosa, the following issues were come to the notice:-

- a. Copy of the MLC was not provided by the authorities hence, staff is facing difficulties to process the papers for compensation in time.
- b. The victims of sexual abuse and domestic violence were taken to the hospital for the medical examination as there was no Doctor in the centre.
- c. The staff of the Bharosa was not aware about the sections/ rules under which compensation can be granted to the victims.

vii. Recommendation

The Chief Secretary Govt. of Telengana should consider the following:-

- Explore the possibilities for opening branches of Bharosa at different parts of the city so that affected people can approach them easily. Also, appoint a Doctor at Bharosa Centre for examination of the victims.
- Providing a chart of different compensation that can be given to the victims of crime. Highlighting the documents and procedure to be followed for submitting application for the compensation.

RECOMMENDATIONS

- I. **The Chief Justice, High Court of Telangana** may direct the Magistrate to enquire from the accused whether he is undergoing any sentence, if so, specify whether this sentence would run concurrently or not (Section 427(1) Cr.PC.).

- II. **The Chief Secretary, Government of Telangana be directed to :**
 - a) Reconsider the case of Mohd. Yunus and afford him right of being considered for Parole, in future other convicts of NDPS be also ensured this right.
 - b) Release Pakistani National Prisoner Sher Ali Keshwani @ Akbar Ali Shammani S/o Kasam from Prison, and submit compliance.
 - c) To consider the following:-
 - Explore the possibilities for opening branches of Bharosa at different parts of the city so that affected people can approach them easily. Also, appoint a Doctor at Bharosa Centre for examination of the victims.
 - Providing a chart of different compensation that can be given to the victims of crime. Highlighting the documents and procedure to be followed for submitting application for the compensation.

- III. **The DG (Prisons), Telangana be directed to :**
 - a) Fill up the vacancies of the jail staff Central Prison Cherlapalli.
 - b) To complete initial Health Screening Form in the jail at two stages. First Stage, fill the name and other available details of the individual and in the Second Stage, the remaining columns be filled, after the receipt of pathological examination reports of the inmates,
 - c) In every six months, the inmate prisoner should be screened for the HIV/AIDS test so that the possibility of spreading of this disease can be controlled.
 - d) Specific counselling of inmates be conducted on (Men who have Sex with Men) MSM.
 - e) Simplify the procedure of procuring raw material for jail factory and to increase the present wages of skilled workers and semi skilled workers in the jail as the rate of wages was fixed in the year 2010.

- f) Provide senior lawyers from the District Legal Aid to deal with the convicts who have been booked for offences like murder, rape etc.
- g) Develop a mechanism of determination of age of very old inmates, if on determination, their age is found to be 80 or more, such aged inmates be considered by Sentence Review Board for premature release.
- h) Constitute board of visitors whose term has expired on 01/03/2018.
- i) Clear all the pending dues of Central Prison, Cherlapalli.

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ADDITIONAL INFORMATION WITH REGARD TO LEGAL RIGHTS OF THE PRISONERS SOUGHT FROM THE JAIL AUTHORITIES AND THEIR REPLY

1	<ul style="list-style-type: none"> • Whether prisoners have access to free legal services? • If so, what is the mechanism available with prisoners to hire legal services and • What is the time taken in providing it? 	<p>Yes.</p> <p>Free Legal Counsel visits thrice in a week.</p>												
2	List of under trial prisoners who are languishing in jail contrary to sec.436 A Cr.PC (<i>who have spent more than half of their sentence</i>).	Nil.												
3	List of prisoners who have completed their sentence and are still in jail.	Only (1) one Pakistan National Prisoner Sher Ali Keshwani @ Akbar Ali Shammani S/o Kasam												
4	The list of the prisoners who have been granted bail and could not be released from jail due to non availability of surety .	Nil												
5	The list of inmates who have been convicted of fine and could not be released from jail as they are not are not able to pay the same.	Nil												
6	<p>Terminally ill patients:</p> <ul style="list-style-type: none"> • Number of tuberculosis and HIV+ve cases of the prisoners reported in last three years i.e from January 2016 to December 2018 and number of death due to TB/HIV+ve during this period. 	<table border="1"> <thead> <tr> <th>Year</th> <th>TB</th> <th>HIV</th> </tr> </thead> <tbody> <tr> <td>2016</td> <td>Nil</td> <td>01</td> </tr> <tr> <td>2017</td> <td>01</td> <td>Nil</td> </tr> <tr> <td>2018</td> <td>Nil</td> <td>01</td> </tr> </tbody> </table>	Year	TB	HIV	2016	Nil	01	2017	01	Nil	2018	Nil	01
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Year	Pneumon ia													
2016	Nil													
2017	Nil													
2018	Nil													

	<ul style="list-style-type: none"> • Whether any delay is caused in sending the referral cases of ill-prisoners to higher institutions. Explain the reason, if any. • 	No.
7	<p>Important instructions / guidelines of NHRC</p> <p>On premature release of prisoners</p> <p>Dt. 20.10.1999 (Annexure A para 3)</p>	
	7.1 List of prisoners male or female undergoing sentences of life imprisonment and covered by the post provision of sec.433A Cr.PC and who have served of 14 yrs of actual imprisonment i.e without remissions (Para 3.1).	Nil.
	7.2 The list of other convicted male prisoners not covered by sec.433A Cr.PC undergoing the sentence of life imprisonment and those who have served at least 14 yrs of imprisonment inclusive of remissions but only after completion of 10 yrs actual imprisonment i.e without remissions (Para 3.2).	None.
	7.3 The list of female prisoners not covered by sec.433 A Cr.PC undergoing the sentence of life imprisonment and those who have served at least 10 yrs. of imprisonment inclusive of remissions but only after completion of 7 yrs actual imprisonment i.e without remissions (Para 3.3).	N.A.,
	7.4 The list of old aged (above 65 yrs) prisoners who have served at least 7 yrs of imprisonment including remissions. Whether there cases have	Nil.

	been recommended for premature release (Para.3.4).	
	7.5 List of the prisoners undergoing the sentence of imprisonment for life and who are suffering from terminal disease like cancer, T.B, AIDS, irreversible kidney failure, cardio respiratory disease, leprosy and other infectious disease etc as certified by the Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions who would be entitled for premature release. (Para 3.5)	Nil.
8	<ul style="list-style-type: none"> • Whether the cases of the prisoners at Sl. 7 have been recommended for premature release to Sentence Review Board? • The list of cases pending with the Sentence Review Board with duration of pendency. 	No. No.
9	<ul style="list-style-type: none"> • Whether the cases of premature release are recommended regularly. • If yes the details of a meeting of Sentence Review Board for last three years. 	No. ...