

## **Report on the visit of Dr Vinod Aggarwal, Special Rapporteur, Central Zone, NHRC to Katihar, Purnea and Kishangunj Jails of Bihar.**

I visited these jails on 7, 9 and 11<sup>th</sup> May, 18, to understand the living conditions of the prisoners and under-trials and see whether rights of theirs are being respected by the local jail administration or not. I also wanted to see the steps taken by the higher authorities at the State level. In course of my visit, I interacted with Jail Superintendent Mr Prabhat Kumar of Kishangunj jail, Jail Superintendent Shri Ravinder Jha of Katihar district jail and Mr Somesh Bhardwaj Jail Superintendent of Central Jail Purnea, the Jail Physicians and other functionaries of these jails. The prisoners and the under-trials, also met me during the visit to various wards. Based on the information furnished as the inspection format, copy of which is enclosed, and scrutiny of various related documents, I record my observations as follows:

### **1. History of these Jails**

The sub-divisional jail at Kishangunj was established in early 20<sup>th</sup>, century in 1925 and re-designated as mandal kara in 2007.

The old jail was converted into district Jail Katihar in 1982. It is good enough to house more inmates as land is available for construction.

The jail at Purnea was established long time back. The old jail has been almost demolished except to preserve some parts for heritage and new jail has been built in 1982. The jail was first converted to district jail in 1956 and in 2007 has been designated as the central jail.

### **2. Land, Campus and Buildings**

The Kishangunj jail premises is not spread over large area and abundant land is not available but still that much land was there, that a jail of 396 capacity was constructed 10 years back

but is lying unused just because perimeter wall which should have been 21 feet but is instead 15 feet which could be termed as a criminal neglect and new construction without use has already become old. The old jail is almost 100 years old is in dilapidated condition.

The Katihar jail is about 36 years old and has enough space (about 27 acres) for expansion also. Although according to Jail Suptd., building is in good condition, but actually, it is not. At many points, there are signs of seepage and lack of repair. Part of building is as new as only 10 years old, but all look in state of disrepair.

The age of Purnea jail, the buildings is built in 1982. The most of the old jail has been demolished because, it was dangerous to live in them. The dimension of prisoners' wards is 25' by 60' to house 33 inmates, in each ward.

As such there is bit of congestion in the wards as the buildings have been built long time back when parameters were not defined that clearly. The perimeter wall is located more 20 metres from the wards. There are 25 wards and 10 special cells in this prison. As such problem of seepage, leakage is quite a lot. The flooring is of cemented in the hospital and kitchen, and no tiles even in these places of Kishangunj and Katihar jails.

	Subject	Kishangunj		Katihar		Purnea jail	
		m	f	m	f	m	f
1.	capacity	m-211	f-10	m-739	f-40	m-800	f-90
2.	actual	m-272	f-16	m-643	f-32	m-1276	f-61
3.	Over crowding	yes, 30%f	Yes 60%	No	No	yes 60%	no
4	convicts	M-19	f-1	m-94	f-7	m-448	f-21
5	und-trial	m-253	f-15	m-549	f-25	m-837	f-40
6	lifera	m-6	f-0	m-52	f-0	m-344	

#### 4. Administrative Staff

A statement showing the sanctioned strength and in position personal with vacancy is given below for

Sl. No.	Designation	Kishangunj		Katihar		Purnia	
		Sanction Posts	In Position	Sanction Posts	In Position	Sanction Posts	In Position
1.	Superintendent	01	01	1	1	01	01
2.	Dy. Suptd.	01	00	02	00	02	01
3.	Asst. Suptd.	04	01	04	01	07	00
4.	UDC	01	00	01	00	01	00
5.	Chief Head Warder	01	01	01	01	01	01
6.	Head Warder	10	10	10	07	23	13
7.	Warders	90	54	90	64	180	99
8.	bmp Guards		05	00	13	-	-
9.	home Guards	15	01	00	05	-	55
10.	Driver	01	01	00	00	1	1
11.	Barber	02	01	02	01	2	1
12.	Sweeper	10	00	10	06	02	1
13.	Medical Officers	02	02	02	02	04	03
14.	Compounder	02	01	02	00	03	00
15.	Dresser	03	00	02	02	03	02
16.	Retd military per						12
	Total	143	78	127	105	225	187

From the above table, it is quite clear that there is understaffing. The posts of warders, head warders and assistant superintendents are important in day today running the jail. The comparative of 3 jails suggest seeing the number of prisoners that the jails. But in all the jails shortage of personal is noticed. The medical personals and support staff is also almost non-existent. Even simple x-rays and blood test are not being done in the hospital. Although there are private medical colleges both at Kishangunj and Katihar, but the association with them is very little and through civil surgeon, this association may be institutionalised for the welfare of inmates. Posts of social workers under a senior sociologist and psychologist with some assistants are also now a need of the hour in all these jails.

The jail Supt. has not mentioned about, posts of Video conference and computer operator etc, who should be appointed

on regular basis. As the jails at the Kishangunj, Purnea and Katihar don't have any manufacturing units. These jails don't provide any facility for the convicted inmates who are supposed to do rigorous imprisonment. I have not seen any other central jail which does not provide facilities of rigorous imprisonment, which is very important component of jail term. Now a proposal is pending with state govt. to provide for weaving units and oil extraction, masala grinding, sattu making, soap and Phenyl making, bakery and jute weaving unit. It is required that some posts for supervision may also be created, by reducing some posts of warders and posts are created to train and get much more production from 460 odd convicts with rigorous imprisonment. District Jail, Katihar also have 150 convicts. This jail also requires a small manufacturing unit.

The human resource development of the jail personal is a subject under consideration of the Government and institutional arrangements for training of officers and other staff are being attempted. The state training institute now has been established at Hazipur. It has started training now and imparts training to the ranks of assistant jailors of the Jails. At present the Jail superintendents get trained in other states, wherever a place for training is available. There is basic course of 6 months for warders and Senior Leadership Course (S.L.C) course for the Head warders. But I feel that training module for human resource development has to done in much more structured way and with home department taking lead for training in techniques to handle and reform the convicts to bring them into main stream of the society. Besides these it would be desirable to start.

## **5. Rights of Prisoners**

Rights of prisoners, is an evolving subject. In our Constitution, directly any rights have not been given to prisoners. But their rights emerge, through either rights to the citizens or through various judgements by the Hon'ble Supreme Court or various High Courts, In brief these rights could be:

- a) The right to get paid for work done. Various courts have said that, when a prisoner is sentenced to rigorous imprisonment, the prisoner is supposed to do work, but that doesn't imply that he/she has to work free of cost. The prisoner is supposed to be paid minimum wages for the work done.
- b) The right of dignity, that an under-trials / prisoner, should not be chained ordinarily and even when taken out of prison normally not to be hand cuffed as per judgement.
- c) Right for reasonable facilities of food, lodge, clothing, medical facility.
- d) Rights of under-trials for speedy trial but seems theoretical.
- e) Right of bail for under-trials, and parole and remission for convicts,

### 5.1 Right of Speedy Trial:

The jail administration is has given details of under – trials with various detention periods as per the table below:

Period of Detention	Kishangunj		Katihar		Purnea	
	Males	females	Males	females	Males	females
Upto 3 Months	91	06	209	05	357	13
3-6 months	58	04	87	05	197	18
6-12 months	49	02	105	05	116	04
1-2 years	33	02	74	07	109	03
2—3 years	22	01	51	02	38	02
3--- 5 years	00	00	22	01	09	0
Above 5 years	00	00	01	00	02	0
Total	253	15	549	25	838	40

About 36% under-trials (97 out of total 268) have a detention period of less than three months in Kishangunj jail. This jail does not have under- who are in jail for more than 3 years at present.

Only 21% of under-trials are under detention for less than 3 months in Katihar. 5 % under-trials are there for more than 3 years. It seems that their cases especially of more than 3 years can be studied by NHRC for directions to the concerned

authorities for their speedy trial. Purnea central Jail has 11 inmates who have jail term more than 3 years but their cases are yet to be disposed off. But it is common problem across the state that as the review by the visitor not appointed or otherwise, the judicial officers assigned to jail to look into their job may not be performing their duty to the extent required.

The video- conferencing facility is being used for about 1-2 hrs, as hearing of cases, statements of witness are not being recorded in courts as the lower and middle judiciary are demanding that each court room should have videoconferencing facility. This issue need to be resolved, so that videoconference facility may be used in more effective manner. It is felt that, costs and risk of taking an under-trial to the court is quite heavy and cumbersome and this single reform if used effectively, is going to be one of the greatest reform and will reduce the time an under-trial remains in jail as this has hastened the process of trial in Bihar.

### **5.2 Right of an Under-trial to be released on Bail.**

The jail administration couldn't give information about, petitions pending in the trial court for disposal. It was also not known about the number of cases, where prayers for the bail have been rejected but the advocate concerned has not yet been communicated the reasons of rejections. It came to my knowledge that 2 of the under-trials, are in Purnea jail because he /she is unable to arrange the sureties. The cases where the bail amount is high and becoming hindrance in release of an under-trial came to my knowledge but I feel this information should be sought again and information gathered doesn't look reliable.

### **5.3. Right of convicts to appeal.**

There are many appeals are pending in the high court. The 6 oldest appeals are more than 8 years old. It is clearly suggests that the 50% appeals-are of last-three years duration but about 35% appeals are more than 5 years old. Supreme Court Chief Justice had sought information about pendency of appeals at

various levels.. Only one clerk is in position and there are not many personal including assistant jailors are in place. Adjournments sought by the advocates seems to me, major reason for delay in disposal of cases where the Judges and advocates have to sit together to work on a system where adjournments are not granted on frivolous grounds.

#### **5.4 Right of Convicts for Premature release/ parole/ Remission.**

a) The state government honours the right of convicts for their various rights and has constituted the state sentence review board headed by Home Secretary. Law Secretary, One District & Sessions Judge nominated by Bihar High Court, Director Probation and DG of Police or his representative in the rank of IG of Police are members and IG Prison is the Secretary on this Board.

b) There is 1 cases is pending before the SSRB from only Purnea Jail.

c) The meetings of the SSR Board are being held in the state and the last meeting was held on 27<sup>th</sup> April 17. It is high time that next meeting is scheduled. It is felt that cases are supposed to be studied in detail, so that matter should be disposed of by the SSRB. The jail administration feels that rules for release should be further liberalised as lot of recrimination is there among convicts.

d) Custodial Deaths and escapes:-There are 2 and 10 custodial deaths which have been reported by the Jail authorities in the last 3 years in Kishanganj and Katihar jail, respectively, and report of Purnea jail is incomplete about custodial deaths. The Jail administration said they have submitted reports to NHRC and cases have been closed. There are no escapes reported from the prison/ escorts in last 3 years, from any of the jails.

#### **6. Right of food to convict and Under-trials Prisoners:**

The scale of diet includes 250/300 gm. Rice, 250/300 gm. Wheat flour, 60 gm. Lentils, 100 gm of Gram flour/ gram/ sattu/ bread along with 100 gm. of potato and 200 gm. Of green vegetables and 200 gm. of jaggery makes it a about 3500 calories on average with 60 gm of proteins which is reasonably a balanced diet, but why they have not given 10-20 gm of vegetable oil is a question coming to mind. Twice a month, non-vegetarians get 250gm of chicken or fish. The vegetarians instead get 150 gm of green peas and 100 gm. of paneer, once a week. The food menu is much more elaborate than BPRD norms. Even evening tea along with 2 pieces of bread/100 gm. of chana is provided. On every Sunday breakfast, the inmates are given 6 pooris (150 gm.) along with 150 gm. of vegetables/potato and tea. If this menu is provided without any leakage, there could be no incidence of mal nourishment in the jail. The important part is that in actual practice the food to scale is provided or not, is to be seen by local Jail authorities, the District Magistrate and State Jail Administration. No one complained, about quality of food, but it is felt that there is need for more inspections of food by higher officials are required.

- b) The food is prepared in a very small 100 years old kitchen in the kishangunj for preparing the food. The chapattis are made by hand without LPG burners. The kitchen is run in oldest pattern, with no door closures, no mosquito catchers, no chimneys, most primitive style of cooking.
- c) The food preparation in a 36 old jail of Katihar is almost similar to Kishangunj, except that it is made on LPG instead of coal. Otherwise no automation, very few exhausts and kitchen have no tiles. Poor cleanliness and flooring broken and need replacement.
- d) The Purnea jail also has 36 years old Kitchen. No tiled flooring, walls also not tiled. No automation at present.
- c) The kitchens have no chimneys, exhausts fans, fly proof automatic closing doors. The Kitchen floor was so dirty that



it was difficult to make out whether it is made of impermeable material or not. No containers of stainless steel to keep the chapattis. And other prepared food. It was informed that a modern kitchen is constructed in the adjoining new jail. As the jail has not been used the kitchen constructed also going in disuse.

#### **7. Water Supply and right to water of the inmates.**

One deep boring along with submersible pump is in working condition and supply of water is sufficient. At present water quality is not been tested.

Periodic cleaning of water storage tanks is done. The water is abundantly available, as piped water, in the toilets and for bathing and cleaning of clothes. Although cleanliness around the source of water is being attempted but more efforts are required.

According to the jail manual water used for drinking and culinary purposes should be analysed once every quarter and bacteriological examination on request. No such test appears to have been done in recent past. Jail Supt. should ensure that samples are periodically sent for required examination and analysis. Only Purnea jail has installed water RO machines for potable water.

#### **8. Sanitation, Personal Hygiene & Clothing.**

The jail authorities have given information, that there is only one cage latrine in each ward and requisite latrines outside the wards and most of them are in working conditions. There are 50-70 inmates in each barrack and night time there is only one WC in the ward. Each ward should have at least 2 cage latrines instead of one, based on number of inmates in each ward. The cage latrines practically are in working conditions. Needs an improved version and increase in number of cage latrines is required need. And bathing platforms and toilets for day time use are to be there in good condition, that they are used by the inmates. Although it has been ensured that toilets are placed on

impermeable floor, higher than the surrounding ground and but the sun's rays can't easily enter the toilets, but the rain water is kept out.

### **9. Health & medical care**

~~Kishangunj Jail has 10 bedded hospital and Katihar jail~~ with 20 beds with almost no facilities. The Purnea jail has 28 beds although Jail suptd has written 50 beds which is not correct. With one regular & 1 contract doctor routine facilities cannot be run. The arrangements for blood examination, x-ray machine, EKG, dental chair, ultra sound machine are not available in jail. Even the District hospital has also very limited facilities. As such the hospitals' capacity is less than 5% of total capacity of jail. Floors and walls don't have glazed ceramic tiles and have no uninterrupted supply of water and electricity. Even water provided is not RO water.

Daily average OPD of inmates is 20-70. There is no shortage of medicines reported by jail administration and the inmates. There is only 1 mentally ill persons who are under detention only at Katihar jail. The IG Prisons has not visited u/s 39(1) of mental Health Act '87, as per the statement of Jail Suptd, but the statement of Jail suptds are not reliable. A psychiatrist from District hospital visits Purnea jail once a week. No Psychiatrist is posted at Kishangunj and Katihar district hospitals.

### **10. Children living with Convicts (mother)**

Every such child staying with mother has a right to requisite food, as prescribed in jail manual. This jail is providing food, crèche and nursery education which have been deployed in the women ward. As per norms each of these children are allowed to go out of jail premises for playing and mixing with general population. The sports goods or such desirable equipments are also provided to such children. 3 and 7 Children at Katihar and ~~Purnea Jail but no child in Kishangunj jail, at present.~~

### **11. Industrial production and payment of daily wages to the prisoners.**

Kishangunj jail does not have the provision of the production. As such the new campus also does not have any unit for production. But once the jail shifts to the new adjoining campus than the old jail campus can be partially used as a production centre.

The Katihar jail also doesn't have regular manufacturing facilities and 100 odd convict inmates work for odd jobs in kitchen and hospital but that is not enough.

The central jail Purnea also doesn't have a manufacturing unit at present but they are going to set up few units in recent future.

### **12. Educational Facilities to the prisoner, whether convicts or under-trials.**

The prisoners or under-trials have the various options for Yoga, physical training. Gymnasium, music and library. They can also enrol through Nalanda Open University, NIOS. Canteen facilities are available to the prisoners.

### **13. Interview facility provided to prisoners.**

As per jail manual, e-mulakaat (video –conferencing facility through pragya Kendra) and telephone booth facility is available to the prisoners. The V.M.S. system is available to the relatives for granting interviews, such requests are received daily which are disposed of as per jail manual. It has been mentioned by jail authorities that very few of the requests have been turned down. It has been gathered that under trial can meet once in 7 days and convicts once in 15 days.

### **14. Visits/Inspections during last one year.**

It has been informed that, the judicial authorities had visited few times in last year and among the non judicial

authorities, there have been 2 visits. The board of visitors was in process of constitution.

### **General Remarks**

These are 2 district and one central jail with different capacities and different profiles of inmates. The major problems according to me are as follows:

1. Shortage of personal is a problem in all jails visited, but least in Purnea jail. There is need for creations of posts of sociologist, social workers, psychologist, medical officers. Besides these, we need to upgrade skill and production centre, for which supervisor in, hand looms, phenyl and caustics, printing, carpentry are required to upgrade skills production can be achieved at all three places.

2. The building of Kishangunj jail is old, about 100 years, and buildings are in state of disrepair, poor and shoddy maintenance. The flooring of cement is damaged and broken at many places. M Windows and ventilators are damaged at lot many points. The toilets old fashioned and can't be really converted in modern one. The cage latrine maintenance need to much better. The no of bathing space and toilets are much lesser in number. This place requires shifting to new construction which is already there standing and getting old in disrepair because not used. The Kishangunj jail can become a much better jail with few of barracks of old jail could be used for developing facilities of bigger hospital, few industrial units and library, gymnasium. This work can be done by IG of prisons and Home Secretary, in next 3 months, if they wish to see the file and get the newly constructed jail be used.

3. The kitchens in Kishangunj definitely & Katihar and Purnea require the following: A modern kitchen with sufficient facilities as per BPRD norm is the need of this Jail.

i)The platform for washing, cleaning and cutting vegetables, rice and potatoes should have basins for proper cleaning, with adequate no of taps and disposal of waste water.

ii)Fly proof automatic closing doors must be installed.

iii)There need of stainless steel storage and serving utensils must be made available along with modern facilities like hot case for keeping cooked food, fresh and safe, along with dough making and roti making machines of requisite capacity at all the three jails.

4. The use of convicts and under-trial for meaningful productivity is another area where jail administration should look at actively..

5. There was demand of potable water by the inmates. It is felt that a R. O. Plant may be installed at the Jail Premises for making the clean drinking water to all inmates. The iron content is very high in these jails which require treatment. At present only Purnea jail has installed the ROs. The other 2 jails also require this facility of RO water.

6.For rehabilitation of prisoners, once they go back in the main stream of the society, it is felt, that sociologists and psychologists need to work with the profile of each of the convicts and under-trials and once they go back to the society there could be pool of entrepreneurs who should also be encouraged to keep these as workers in their factories/units under the supervision of sociologists and psychologists, who should become a bridge between the reformed convicts on completion of their terms and their getting reabsorbed in the society in general and the confidence of entrepreneurs specifically to be won for at-least 5 years after their release.

Once these units are developed it would engage 100% convicts and majority of under-trials who want to work and send home some money. It would be of use that 6 month training imparted with formal certificates could be granted by the Jail Administration in following disciplines:-

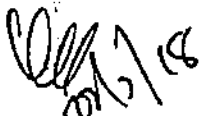
- a) The certificate program could be weaving whether on hand loom, power-loom or for jute weaving.
- b) Tailoring and cloth designing could be a 2<sup>nd</sup> program
- c) Carpentry and steel works could be 3<sup>rd</sup> certificate program
- d) Bakery techniques, and masala and oil grinding.

7. The hospital requires addition of beds to the 5 % of the actual strength of jails with more doctors, technicians and equipments to do blood tests and X-rays in the jail hospital. The district Hospital of Purnea is quite old and have good facilities, but the district hospitals of Kishangunj and Katihar themselves lack facilities. But at both these places there are private medical colleges are there which are sometimes help taken under the orders of civil surgeon , but it would be useful to develop a referral system for these private medical college for better medical treatment of inmates.

8. Increase in the numbers of cage latrines in all the 3 jails and early completion of under construction wards in Purnea central jail to reduce the 60% extra inmates in more wards.

9. The Regular Meeting Sentence review board and more liberal terms and condition is the demand which could be looked into by the higher jail authorities.

10. Last, but not the least, the lighting is very poor in the jail. Need to be improved tremendously.. Boundary wall of the Katihar jail is only 18 feet high which is not as per the jail manual. The use of catapult has been reported for throwing mobiles and the drugs inside the jail which should be controlled by raising the wall and barbed wire fencing.



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Special Rapporteur