

Minutes Of The Meeting Dated 17-05-2021 Of The High Powered Committee
Meeting Formed By The Assam Government In Compliance Of The Guidelines Of
Hon'ble Supreme Court Of India

Members Present:

- i. Hon'ble Mr Justice N. Kotiswar Singh, Executive Chairman, ASLSA and Judge, Gauhati High Court..... Chairman.
- ii. Mr. M.S. Manivannan, Commissioner and Secretary, Home and Political Department, Assam.....Member
- iii. Mrs B. Sharma, IG(Prison), Assam.....Member

(In compliance of the direction of Hon'ble Supreme Court given in **SUO MOTU WRIT PETITION (C) NO. 1/2020** (order dated 23-03-2020) IN RE : CONTAGION OF COVID 19 VIRUS IN PRISON the HIGH POWERED COMMITTEE was formed in the State of Assam last year.)

The Meeting of the High Powered Committee was held via Goggle Meet. The Member Secretary and Deputy Secretary of ASLSA, Assam were also present in the meeting through video conferencing.

Pursuance to the resolutions taken by the High Powered Committee in the meeting held on 16-05-2021, the Committee again sat to discuss the UTRC recommendations of the eight districts which, earlier did not send the details of the inmates to be released. Those districts were Chirang, Dhubri, Cachar, Darrang, West-Karbianglong, Kokrajhar Dima-Hasao and Kamrup (M). On perusal of the inmates' lists, HPC found that some of the inmates whose release have been recommended by some UTRC are accused of offence punishable more than seven years which is beyond the scope of the High Power Committee in terms of the direction of Hon'ble Supreme Court. Therefore, the Members of the High Power Committee under the Chairmanship of Hon'ble Mr Justice N Kotiswar Singh, Judge, Gauhati High Court and Executive Chairman, Assam State Legal Services Authority, after threadbare discussion resolved thus:

RELEASE OF UTPs WHO ARE ACCUSED OF OFFENCE PUNISHABLE FOR LESS THAN SEVEN YEARS

The inmates who are accused of the offence punishable up to seven years or less may be allowed to be released on bail/ PR bond, subject to any conditions, if applicable as herein mentioned below. **However the recommendation of the UTRCs for the**

inmates who are accused of offence punishable for more than seven years shall be put on hold and the concerned court will decide the cases of such inmates on merit of the case on the basis of the alleged facts and other factors, as per law.

RELEASE OF UTPs WHO WERE GRANTED BAIL BY COURT ALREADY, BUT UNABLE TO FURNISH SURETY/BAIL BOND

For release of the inmates whose bail have already been granted by the Court, but languishing in jail for not furnishing bail-bond, the decision taken by the High Power Committee already in the meeting dated 16-5-21 would be apropos. They may be released on P.R. bond, subject to any of the conditions, if applicable as herein mentioned below.

CONDITIONS APPLICABLE TO THE ACCUSED RELEASED UNDER THE CATEGORIES AS SPECIFIED ABOVE

The conditions already set by the High Power Committee in releasing the inmates shall be also applicable for releasing the inmates falling under the above categories in the present eight districts and these are-

- i. In the event of the UTP being accused of offences punishable with imprisonment for more than seven years, then the concerned Trial Magistrate/Elaka Magistrate has to re-consider such recommendations keeping in view the gravity of the alleged offence and the merit of the case on the basis of the alleged facts and other factors, as per law.
- ii. In the event of an UTP being accused of committing an offence punishable u/s 498-A IPC, then at the time of release, such UTP, must furnish an undertaking that he shall not commit an offence of similar nature of which he is accused, and will not indulge in any aggressive act towards the victim/or any member of the family and any violation of such undertaking given will render such bail granted liable to be recalled.
- iii. If the UTP who is recommended to be released is a resident of another district (other than immediate neighbouring district), bail will not be granted as it would entail long journey which is to be avoided during this pandemic period.
- iv. In all cases the address of the UTPs recommended to be released is to be ascertained to ensure their future appearance.

RELEASE OF CONVICTS ON PAROLE:

Like the decisions that had been taken for the other districts, in case of the present eight districts also, the Members of the High Power Committee resolved thus-

- a. The inmates who were released on parole during the first wave of the pandemic in accordance with the guidelines of HPC following the directions of Hon'ble Supreme Court in Suo Moto W.P. (C) 01/2020 and returned later on, are to be released again on parole for a further period of 90 days in consultation with the Home Department of Government of Assam.
- b. The Committee resolved that the convicts who do not fall under the above category, but entitled for parole, may be allowed to go on parole, subject to the approval of the State Government, for a time duration of two months, on the condition that such convicts would report to the nearest Police Station every forth night and the O/C concerned Police Station will communicate the same with the O/C of the concerned Police Station under whose local jurisdiction the case was registered in which the convict was sentenced, (if the nearest and such concerned Police Station are different).
- c. After a period of two months, the convicts so released will report back to the concerned jail authority to spend the remaining period of sentence. Even those who have completed their term of sentence must report back to the jail for completing the formalities.
- d. If the convict who is recommended to be released is a resident of another district (other than immediate neighbouring district), bail will not be granted as it would entail long journey which is to be avoided in this pandemic period.

RELEASE OF THE INMATES WHO WERE ALLOWED TO BE RELEASED TEMPORARILY LAST YEAR IN VIEW OF ORDER IN SMWPC 1/2020

The High Power Committee has already directed the IG, Prison, as per resolution taken in the meeting dated 12.5.2021 in pursuance of the direction of the Hon'ble Supreme Court in Suo moto WP (C) 1/2020, to issue necessary instructions to the Jail Authorities to release the inmates again who were released last year with appropriate conditions as per recommendation of the High Power Committee made pursuant to the order in Suo moto WP (C) 1/2020.

ADDITIONAL PROTOCOL

The additional guidelines laid down by the High Power Committee vide meeting dated 16.5.2021 to meet any unforeseen situation which might arise due to the pandemic

shall be applicative for the present eight districts also. The additional instructions were-

1. The Police authority has to keep a vigil on the released inmates, who are alleged to have committed offences punishable under Section 498-A IPC.
2. DLSAs are to provide counselling and monitor the behaviour of such UTPs released and provide the report to UTRC for considering if the accused so released is entitled to remain on P.R. bond or his bond is to be cancelled for not keeping the undertaking that the accused gave while being released. DLSAs are to take necessary steps in this aspect.
3. On release of any accused under the recommendations of the UTRC, which is approved by the HPC as herein above mentioned, is to be allowed to go home only if found to be Covid negative. If such accused is tested positive, then immediately his medical needs are to be attended and to be released only after being tested negative.

The IG, Prisons has informed that the Prisons department has already given instructions to 31 prisons for adopting necessary measures to prevent spread of Covid inside the Jails as per the guidelines received from MHA dated 20th April, 2021 and as per the direction given by Hon'ble Supreme Court on 7.5.2021 in SMWP (c) 1/2020.

It is also informed that the IG, Prisons has already placed requisition before the Commissioner and Secretary of Home and Political department, Assam for supplying sufficient numbers of N-95 masks, surgical masks and sanitizers in view of the discussion dated 12.5.2021.

The IG, Prisons has further informed the Committee, that she had taken the stock of the measures followed by the Jails in Assam for preventing the spread of Covid-19 in the Jails through video conferencing on 13.4.2021, 10.5.2021 and 11.5.2021

The meeting concluded with thanks from the Chair to the members for giving several hours from their busy schedule, in last three meetings and the Chairman appreciated them for their views put in the meetings.

Justice N. Kotiswar Singh

(Chairman)

Mr. M.S. Manivannan,

(Member)

Mrs. B. Sharma

(Member)

