

Minutes Of The Meeting Dated 21-05-2021 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

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

Background

1. The High Powered Committee (HPC) was constituted by Hon'ble Supreme Court in Suo Moto W.P. (C) 01/2020 vide order dated 23/03/2020 in reference to CONTAGION OF COVID 19 VIRUS IN PRISONS. The term of reference of the HPC can be seen from the order itself, relevant portions which read as follows:

"..... We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (iii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the state/Union territory could consider the release of the prisoners who have been convicted or under trial for offences for which prescribed punishment is up to or less, with or without fine and the prisoner has been convicted for lesser number of years than the maximum.

*It is made clear that we leave it open for the High Powered Committee to determine the category of the prisoners who should be released as aforesaid, depending upon the nature of the offence, the number of years to which he or she has been sentenced or the severity of the offence with he /she is charged with and is facing trial or any other relevant factor, which the committee may consider appropriate.”
.....”*

2. Thereafter, the HPC has been holding meeting from time to time to implement the directions of Hon’ble Supreme Court. As indicated in the order, HPC is to consider release of prisoners who have been convicted or are facing trial for offences punishable up to 7 years with or without fine.

3. Today, this HPC, however, has been convened, in compliance with the direction of Hon’ble Gauhati High Court passed in PIL Suo Moto 04/2020 on 19/05/2021, relating to female jail inmates having minor children with them in jail and who are not juveniles in conflict with law. Since the children are less than 6 (six) years they have been allowed to stay with their mothers, who are in jail. The Hon’ble Gauhati High Court thought it fit to refer to the High Powered Committee to look into the aspect and examine whether any of the inmates, details of which were furnished by the State Government can be released under these difficult circumstances on account of Covid-19 pandemic (second wave). Relevant portions of the order dated 19/05/2021 of the Hon’ble High Court are reproduced herein below:

“on inquiry, we have found these children are no juvenile in conflict with law, but they are in jail since they are less than six years of age and as per the jail manual, they are allowed to stay with their mothers who are in jail.

Under these strange and difficult circumstances of second wave of Covid 19 pandemic where a High Powered Committee of this Court is already seized with the matter and which has drawn certain principles on which jail inmates have to be released on temporary bail for three months or so, it would be in the best interest of everyone that the list be forwarded to the said High Powered Committee which shall look into this aspect and examine whether any of the inmates who are in the list can be released under these special circumstances of Covid -19 pandemic (2nd wave).....”

4. Accordingly in terms of the aforesaid direction of Hon’ble Gauhati High Court, the High Powered Committee has been convened today to consider the same, in which not only the members of the HPC but also Jail Superintendents of the Jails of Assam

were present virtually through Video Conference. The HPC, considered the details of female inmates with children referred to in the list provided by IG (Prison) on 12/05/2021.

5. From the perusal of the list, after detail discussion, it was observed that many of the UTPs have been booked or facing trial in serious cases like murder charge, involvement in drugs etc.

6. The High Powered Committee felt that perhaps these cases do not strictly fall within the parameters/guidelines/directions issued by Hon'ble Supreme Court in the aforesaid Suo Moto W.P (C) 01/2020 pending before Hon'ble Supreme Court. However, since this matter relating to female inmates having minor children has been referred to High Powered Committee by the Hon'ble Gauhati High Court, we would consider that different parameters have to be evolved to consider release of these inmates as part of the exercise required to be under taken by the High Powered Committee in terms of the direction of the Hon'ble Gauhati High Court in PIL Suo Moto 04/2020. In order to expedite and facilitate the matter, we have felt it appropriate that these matter be first examined by Undertrial Review Committee (UTRC) of the respective districts, which will be in a better position to appreciate and assess the gravity of the role played by the inmates and also in the event of release for 2/3 months under this special dispensation, whether there were will be reliable family members/relatives who will accommodate them and ensure their return on completion of 2/3 months of bail, which might be granted in this regard.

7. During the discussion, the IG (Prison) informed that out of the 24 (twenty four) female inmates detained in 12 (twelve) jails, as shown in the list, 5 (five) female inmates were already released from Jail as per bail granted by the concerned courts leaving the total to 19 UTPs, in the list. Out of said 19 (nineteen) UTPs, 1 (one) was a convict who had already preferred appeal before Hon'ble Gauhati High Court and 2 (two) UTPs were booked under Foreigners Act/Passport Act and they claimed to be from Myanmar.

Additional Information relating to earlier proceedings of the HPC.

Today the IG, Prison has informed the HPC that from the list, containing 15 (fifteen) convicts submitted by them for releasing on parole, the Review Board constituted by the Home and Political Department of Assam has decided to release 11 (eleven) convicts on parole after due recommendation HPC. The Prison Department today further submitted a list showing that till yesterday, a total 801 (eight hundred one) inmates have been released in Assam as per recommendation of HPC.

Resolutions

- 1) After an extensive deliberation amongst the members of the HPC and after eliciting views of the Superintendents of the Jails, in order to expedite and facilitate the matter, the list of the inmates are to be sent to the Undertrial Review Committees (UTRC) of the respective districts, which shall give their opinion/recommendations regarding the release of these inmates by 24/05/2021, after assessing the gravity of the role played by the inmates and also considering the local logistics in the event of their release for 2/3 months, as to whether there were will be reliable family members/relatives who will accommodate them during this period and ensure their return on completion of 2/3 months of bail, if granted. The Undertrial Review Committees of the respective districts after considering all the relevant aspects will make necessary recommendations to the HPC.
- 2) As regards one convict, it was resolved that the matter be referred to the Government of Assam to consider his release on parole.
- 3) As regards those inmates who have been declared foreign nationals (DFN) lodged in three detention Centres in the State of Assam, it was informed that out of the 8 (eight) DFNs, 1 (one) DFN was already released. As regards the remaining 7 (seven) DFNs, it was resolved that as the matter pertains to declared foreigner nationals, a detail report may be sought from the Home Department to consider their release.

- 4) The Committee members resolved that the UTRC meeting may be convened in the concerned districts on or before 24th May, 2021 on the aforesaid aspects and provide their report/recommendations on 24th May, 2021 itself for considering the recommendations so made, by the HPC in its next meeting.
- 5) The members of the HPC has resolved to sit again on 25.5.2021.

Justice N. Kotiswar Singh
(Chairman)

Mr. M. S. Manivannan
(Member)

Mrs. B. Sharma
(Member)