

Minutes of the Meeting of High-Powered Committee under the Chairmanship of Hon'ble Mr. Justice Sangeet Lodha, Executive Chairman, Rajasthan State Legal Services Authority, held on 13.05.2021, through Video Conferencing at 11.30 am, in compliance of directions issued by the Hon'ble Supreme Court vide order dated 07.05.2021 passed in SMWP (C) 1/2020

The meeting was attended by the following Members of High-Powered Committee/Officers of RLSA:

1. Mr. Abhay Kumar, Principal Secretary, Home, (Member)
2. Mr. Rajeev Dasot, DG, (Prisons) (Member)

Mr. Brajendra Jain, Member Secretary, RLSA is present to assist the Committee.

Agenda No.1:- Matter regarding consideration of release of prisoners on parole, in compliance of order dated 07.05.2021 passed by the Hon'ble Supreme Court in SMWP (C) 1/2020 and under Rule 10-B of The Rajasthan Prisoners Release on Parole Rules, 1958.

The High-Powered Committee constituted by the State Government pursuant to directions issued by the Hon'ble Supreme Court of India in Suo Moto Petition (Civil) No. 1/20-In Re: Contagion of COVID-19, in its meeting held on 8th April, 2020 *inter alia* resolved to recommend to the State Government to make necessary amendment in the Rajasthan Prisoners Release on Parole Rules, 1958 ('the Rules of 1958') so as to make provision for special parole for immediate easing of the population of inmates in prisons in the wake of emergent situation of COVID-19 pandemic. In compliance of the recommendations made, the State Government *vide* notification dated 10.4.2020 inserted new Rule 10-B in the Rules of 1958, which reads as under:

"10-B. Special Parole in the wake of COVID-19 Pandemic. (1) Notwithstanding anything contained in rules 3,4,5, 9, 10 and 10A, in the wake of emergent situations of ongoing COVID-10 PANDEMIC which warrants immediate easing of population of prisoners in the prison, the State Government in order to secure the interest of prisoners, on the recommendation of the Prisoners Parole Advisory Committee, may grant Special Parole, for a period not exceeding four weeks, to a

prisoner who has already availed first, second or third Parole peacefully and his behavior has been good during the period of such parole. The Special Parole under this rule shall be granted on such terms and conditions as may be considered necessary by the State Government.

Provided that special parole under this rule shall not be granted to the prisoner who has been convicted for the offence related to Acid Attack, Rape, Dacoity, Murder, section 4 or 6 of the Protection of Children from Sexual Offence Act, 2012, the Narcotic Drugs and Psychotropic Substances Act, 1985, Economic Offences, the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act, 2002, Anti National Activities, the Unlawful Activities (Prevention) Act, 1967 or any other offence of similar nature or the cases investigated by any central investigating Agencies.

(2) The Prisoners who are already availing first, second or third parole or the parole of 40 days granted every year, as the case may be, on the date of commencement of these rules i.e. the Rajasthan Prisoners Release on Parole (Amendment) Rules, 2020, the period of such parole shall be deemed to be extended upto 03rd May, 2020."

Number of persons were extended special parole by the State Government in exercise of the powers conferred under Rule 10-B (1) of the Rules of 1958 for a period of four weeks.

Emergent situation on account of spread of COVID-19 pandemic continued and for this reason, it was considered necessary that the parole period of the prisoners already availing the Special Parole/Regular Parole be further extended so that the inmates in the prisons may not get in contact with any CORONA positive person entering the prison from outside after completion of the term of parole.

Accordingly, the High-Powered Committee in its meeting held on 3.5.2020, recommended to the State Government to make necessary amendment in Rule 10-B of the Rules of 1958 so as to further extend the period of parole of the prisoners who were already availing the regular parole/special parole or whose extended period of parole was expiring on 3rd May, 2020.

Pursuant to the recommendations made as aforesaid, the State Government vide notification dated 11th May, 2020, amended the Rules of 1958 and added sub-rule (3) in Rule 10-B of the Rules of 1958, which reads as under:

“(3) The period of special parole granted under sub-rule(1) or the extension of parole granted under sub-rule (2) may be further extended by the State Government, from time to time, if emergent situation on account of spread of COVID-19 PANDEMIC persists.”

The State Government while invoking the power conferred under sub-rule (3) of Rule 10-B, extended the period of Special Parole granted under sub-rule (1) of Rule 10-B and also further extended the period of parole of the prisoners who were granted extension under sub-rule (2) of Rule 10-B, from time to time.

Keeping in view unprecedented surge in COVID-19 pandemic during the last few weeks, the Hon’ble Supreme Court *vide* order dated 7th May, 2021, has directed that the High-Powered Committee constituted by the State Governments/Union Territories shall consider the release of prisoners by adopting the guidelines (such as *inter alia*, SOP laid down by NALSA) followed by them last year at the earliest. In addition to considering fresh release, the Court observed that High-Powered Committee should forthwith release all the inmates who had been released earlier pursuant to order dated 23rd March, 2020 by imposing appropriate conditions. It is further directed that the inmates who were granted parole pursuant to earlier orders of Hon’ble Supreme Court should be again granted a parole for a period of 90 days in order to tide over the pandemic.

Mr. Rajeev Dasot, DG (Prisons), informed the Hon’ble Chair that out of those who were released on special parole in pursuance of directions of Hon’ble Supreme court and on the recommendations of High-Powered Committee in the year 2020, 57 prisoners are still lodged in Jails.

He further apprised that there are 38 prisoners who were not eligible for special parole in the year 2020, have now acquired the eligibility for consideration to be released on Special Parole under sub-rule (1) of Rule 10-B.

It is noticed that at present, Special Parole under sub-rule (1) of Rule 10-B, may be granted to the eligible inmates upto four weeks, which may be further extended by the State Government

invoking the powers under sub-rule (3) of Rule 10-B, from time to time, if the spread of COVID-19 pandemic persists.

Mr. Rajeev Dasot, DG (Prisons) suggested that since the Hon'ble Supreme Court has directed to extend the Special Parole for a period of 90 days to the inmates who were released on Special Parole last year, it would be appropriate that the inmates who have now acquired the eligibility under Rule 10-B (1), are also released for a period of 90 days and therefore, the recommendation deserves to be made to the State Government to amend sub-rule (1) of Rule 10-B appropriately.

DG (Prisons) also apprised that presently 90 prisoners are out on regular Parole, hence, considering the aspect of pandemic, period of parole of the said prisoners may be extended upto 30th June, 2021, by making appropriate amendment in Rule 10-B (2) of Rules of 1958.

As per Rule 10-B(1), a prisoner who has already availed first, second and third parole peacefully and his behaviour has been good during the period of such parole, is entitled to be considered for release on Special Parole on such terms and conditions as may be considered necessary by the State Government. In this view of the matter, the Hon'ble Chairperson inquired as to whether any of the 57 inmates earlier released on Special Parole, who are presently lodged in Jails, have committed any offence or breach of parole conditions while availing the Special Parole.

DG (Prisons) informed that none of the 57 inmates earlier granted Special Parole, presently lodged in Jails, have committed any breach of the conditions of the parole.

After due deliberation and thoughtful consideration, the Committee **Resolved** :

- (i) to recommend to the State Government to release all the 57 inmates on parole for a period of 90 days, who were released on Special Parole last year invoking the provisions of Rule 10-B (1) of the Rules of 1958 and have surrendered peacefully after completion of the parole period, as directed by Hon'ble Supreme Court vide order dated 7th May, 2021. They shall be released on the same terms and conditions as imposed while earlier releasing them on Special Parole;

(ii) to recommend to the State Government to amend sub-rule (1) of Rule 10-B of the Rules of 1958 so as to substitute the period of Special Parole as provided under the said rule as 'not exceeding 90 days' in place of 'not exceeding four weeks'. Further, in the existing sub-rule (2) of the Rule 10-B of the Rules of 1958, the words 'Rajasthan Prisoners Release on Parole (Amendment) Rules, 2020' may be substituted by the words 'Rajasthan Prisoners Release on Parole (Amendment) Rules, 2021' and the date of extension of the parole period mentioned as '3rd May, 2020' may be substituted by '30th June, 2021'. The amendment proposed may be carried out expeditiously;

(iii) to recommend to the State Government to consider the release of the inmates, who have now acquired the eligibility under sub-rule (1) of Rule 10-B, on Special Parole immediately after the amendment in the Rules of 1958 is carried out as recommended above.

Agenda No. 2:- Matter regarding consideration of release of prisoners on interim bail.

At the outset, it needs to be noticed that the High-Powered Committee had not made any recommendation for release of Under Trial Prisoners ('UTPs') on interim bail last year. However, the instructions were issued by RLSA to all District Legal Services Authorities (DLSAs) for conducting meeting of Under Trial Review Committee (UTRC) on weekly basis for identification of the prisoners, to be released under established criterion. On the bail applications filed at the instance of concerned DLSAs, the number of prisoners were released on bail.

After due consideration, the Committee **RESOLVED** that :

(i) UTRCs of each districts shall continue with the weekly meetings and make recommendations for release of UTPs falling within the categories covered by the SOP issued by NALSA and various directions given by Hon'ble Supreme Court in Arnesh Kumar's case (supra). UTRCs may also come up with new/fresh criteria for facilitate decongestion of jails;

(ii) Secretaries DLSAs, be directed to provide free and competent Legal Aid and to facilitate the under trial prisoners for filing bail applications as well as in other ancillary proceedings thereto;

(iii) UTRCs be directed to consider under trial pregnant women and in appropriate cases, women with minor children for the purpose of extending the benefit of interim/regular bail to them.

Agenda No. 3:- Matter regarding consideration of strict compliance of the directions passed by Hon'ble Supreme Court in Arnesh Kumar V. State of Bihar (2014) 8 SCC 273.

PS (Home) apprised the Committee that the directions have already been issued to the Director General of Police, Rajasthan for strict compliance of various directions given in Arnesh Kumar's case (supra).

It is unanimously **Resolved** that the State Government shall ensure regularly and strict compliance of the directions issued by the Hon'ble Supreme Court in Arnesh Kumar's case(supra).

Agenda No. 4:- Matter regarding consideration of shifting of prisoners from one jail to another, for the purpose of decongestion of prisons.

Mr. Brajendra Jain, Member Secretary, RLSA apprised the committee that as per direction of Hon'ble Executive Chairman, RLSA, all the Secretaries DLSA have recently visited and inspected all the jails across Rajasthan for the purpose of proper compliance of directions given by Hon'ble Supreme Court vide order dated 07.05.2021. The Secretaries of DLSAs submitted the report and the same was further compiled and analyzed by RLSA.

DG (Prisons), Mr. Dasot apprised the Committee that, over all, jails in Rajasthan are not overcrowded and are having 95 % occupancy. However, he agreed with the concern of the Hon'ble Chair that 3 Central Jails, 9 District Jails and 11 Sub Jails are little bit overcrowded but stated that in present COVID-19 pandemic situation when the Lockdown is operative, it will be difficult to shift the prisoners from one prison to another while following the COVID-19 protocol inasmuch as, the logistics are not easily available.

Considering the overall situation of recent surge in Covid cases, it is **Resolved** that the DG (Prisons) shall take all appropriate steps to ensure decongestion in the prisons. The DLSAs concerned be directed to extend all possible assistance to the Jail Authorities to ensure decongestion in the Jails.

Agenda No. 5:- Matter regarding transportation of the released inmates of the prison to their respective place of residence.

Mr. Abhay Kumar, Principal Secretary, Home and Mr. Rajeev Dasot, DG (Prisons) assured that all possible help shall be extended to the released inmates of the prison for their transportation from prison to their place of residence.

PS (Home), suggested to the Committee that during the Lockdown when the public and private transportation is restricted, the State Government may issue an order to the effect that in case of inmates released from the prison, their release order shall be treated at par with Inter-District Transit Pass and it would not be necessary for the inmates to produce a separate Transit Pass during the transit from prison to their place of residence. After due deliberation, the Committee **Resolved** :

- (i) to recommend the State Government to issue an appropriate order directing all the concerned that release order of an inmate released from the prison shall be treated at par with an Inter-District Transit Pass during the transit from prison to their place of residence ;
- (ii) the State Government be requested to provide transportation facilities to the released inmates as per the requirement;
- (iii) the State shall provide requisite funds to the DG (Prisons) to arrange the transportation.

Agenda No. 6:- Matter regarding consideration of availability of proper medical facilities/ regular testing/ maintenance of level of daily hygiene/ provision of regular nutritious diet being provided to jail inmates.

DG (Prisons) apprised the Committee that at present 37 Doctors and 200 Para Medical staff are available with the office of DG (Prisons) who are deployed in different Jails of the State as per requirement. Apprising about the COVID protocol presently adopted by Prisons, it was informed that COVID tests of the prisoners admitted to the Jails are mandatorily conducted. The special isolation wards and the covid patient wards are established in the Jails with requisite medical facilities. DG (Prisons) further apprised that the inmates lodged in Sub-Jails, suffering from covid are kept in isolation and are administered medical treatment in coordination with the local administration. The Hon'ble Chair is informed that at present there are 600 active covid cases in

various Jails of the State. It is informed that after considering all aspects including nutrition values, dietary plan has been implemented in prisons across Rajasthan. DG (Prisons) further informed that Ayurvedic preparations are also provided to boost the immunity of the inmates.

Mr. Dasot shared his concern before the Committee that out of 22,000 inmates, 3200 inmates are above the age of 45 years and rest fall in 18+ category. State being custodian of prisoners, needs to take special drive for vaccination of the prison inmates. He emphasised for organising vaccination camp inside the Jails.

Mr. Abhay Kumar, PS, Home, agreed that the Jail inmates may be considered at par with the priority group that needs vaccination.

After due deliberations, the Committee **Resolved** that the District CMO and Jail Doctors be advised to examine the inmates on regular basis and if they find or suspect anything relating to COVID-19 symptoms in any inmate, the same should be brought to the knowledge of the Jail Superintendent immediately for taking necessary steps for isolation/treatment of such inmate at the earliest, strictly in terms of guidelines issued by the Ministry of Health, Government of India. Keeping in view the number of inmates found covid positive and the congestion existing in the prisons, the Committee recommends to the State Government to treat the prison inmates in the age group of 18 to 44 years at par with other priority group to be vaccinated and accordingly, special vaccination camp may be organised in various Jails for vaccination of the inmates. The local bodies/CMHOs concerned may be directed to sanitise the Jails periodically on priority basis.

Agenda No. 7:- Matter regarding consideration of dissemination of information about the decisions of High-Powered Committee on websites of State Legal Services Authority/State Government/High Court and prison occupancy on departmental websites.

The Committee **Resolved** that the resolution adopted by the High-Powered Committee shall be shared in the public domain by

uploading the same on the websites of RLSA /State Government/
Rajasthan High Court.

It is further **Resolved** that prison occupancy shall be
uploaded and updated on the website of Department of Prisons on
regular basis.

Meeting ended with the vote of thanks.

sd/-
(Mr. Rajeev Dasot)

sd/-
(Mr. Abhaý Kumar)

sd/-
(Justice Sangeet Lodha)