

Minutes-of-meeting of the 8th meeting of High Powered Committee held under the Chairmanship of Hon'ble Justice Mr. Ajay Tewari, Judge, Punjab and Haryana High Court, Chandigarh and Executive Chairman, Punjab State Legal Services Authority, Chandigarh, at 1600 hrs. on 10.05.2021.

The meeting was attended by the following officers/members of the High Powered Committee:

1. Mr. D. K. Tiwari, IAS, Principal Secretary to Government of Punjab, Department of Jails, Punjab.
2. Mr. Praveen K. Sinha, IPS, Additional Director General of Police, Prisons, Punjab.
3. Mr. R. K. Arora, Inspector General of Prisons, Punjab.
4. Dr. Mandeep Mittal, Addl. Member Secretary, PULSA.

Agenda: Implementation of the directions issued by Hon'ble Supreme Court of India on 07.05.2021 in Suo Motu Writ Petition (Civil) No.1/2020- In RE: Contagion of Covid-19.

2. The Hon'ble Supreme Court of India in the Suo Motu Writ Petition(Civil) no. 1/2020 mentioned in subject in its Order dated 07.05.2021 has passed the following directions:

- #1. The High Powered Committees constituted by the State Governments/Union Territories shall consider release of prisoners by adopting the guidelines (such as *inter alia*, SOP laid down by NALSA) followed by them last year, at the earliest. Such of those States which have not constituted High Powered Committees last year are directed to do so immediately. Commissioner of Police Delhi shall also be a member of the High Powered Committee, Delhi.
- #2. The High Powered Committee, in addition to considering fresh release, should forthwith release all the inmates who had been released earlier pursuant to order dt. 23.03.2020, by imposing appropriate conditions. Such an exercise is mandated in order to save valuable time.
- #3. Those inmates who were granted parole, pursuant to earlier orders, should be again granted a parole for a period of 90 days in order to tide over the pandemic.
- #4. The fight against the pandemic is greatly benefitted by transparent administration. In this regard, Hon'ble Court's attention was drawn to example of Delhi, wherein the prison occupancy is updated in websites. Such measures are required to be considered by other States and should be adopted as good practice. Moreover, all the decisions of High Powered Committees need to be published on respective State Legal Service Authorities/State Governments/High Courts websites in order to enable effective dissemination of information.
- #5. Some prisoners might not be willing to be released in view of their social background and the fear of becoming victims of the deadly virus. In such extraordinary cases, the authorities are directed to be considerate to the

concerns of the inmates. The authorities are directed to ensure that proper medical facilities are provided to all prisoners who are imprisoned. The spread of Covid19 virus should be controlled in the prisons by regular testing being done of the prisoners but also the jail staff and immediate treatment should be made available to the inmates and the staff. It is necessary to maintain levels of daily hygiene and sanitation required to be improved. Suitable precautions shall be taken to prevent the transmission of the deadly virus amongst the inmates of prisons. Appropriate steps shall be taken for transportation of the released inmates of the prisons, if necessary, in view of the curfews and lockdown in some States.

PROCEEDINGS OF THE HIGH POWERED COMMITTEE (HPC):

3. Meeting of the HPC was convened for effective implementation of the directions of hon'ble Supreme Court of India dated 07.05.2021. The directions contained in the orders were discussed in detail. ADGP, Prisons briefed the Chair and other members of the HPC regarding the present situation of COVID in jails of Punjab, the summary of which is as follows:

(a) **Prison Population:**

Authorized Capacity	Total no. of prisoners	Convict prisoners	Under-trial prisoners	Capacity Utilization
23776	23808	6347	17461	100%

(b) **Prisoners released on Parole and Bail (since 25.03.2020):**

Parole	Interim Bail	Regular Bail	TOTAL
4363	3832	29988	38202

(c) **COVID positive:**

S. No.	Time Period	Prisoners	Staff
1.	01.03.2020 to 28.02.2021 (1 year)	2099	165
2.	01.03.2021 to 05.05.2021 (65 days)	1086	17
Total		3185	182

(d) **Vaccination:**

- Prisoners

Total Prisoners	Prisoners above 45 yrs.	Vaccinated
23808	3714	5823

- Staff

Total Staff	Vaccinated	% vaccinated
3060	2474	80.85%

(e) **Institutional mechanism as response to COVID by creation of Special Jails for New Admissions, Level-1 COVID Care Jails and Designated Jails for return of parolees:**

SPECIAL JAILS (5) (for new admission prisoners)	LEVEL-1 COVID CARE JAILS (4)	DESIGNATED JAILS (3) (parole returnees)
SJ Patti	District Jail Ludhiana (Male)	District Jail Barnala
SJ Gurdaspur	Special Jail Bathinda (Male)	Sub Jail Pathankot
SJ Ludhiana	Sub Jail Moga (Male)	Sub Jail Malerkotla (for Women, now closed as all women parolees have returned)
SJ Sangrur	Sub Jail Malerkotla (Female)	
SJ Sri Mukatsar Sahib		

4. The HPC deliberated upon the directions of Hon'ble Supreme Court of India. Upon detailed discussions, the HPC approved the following steps/actions to be taken by different authorities for implementation of the directions of the Hon'ble Supreme Court of India, and in light of the unprecedented circumstances that exist in the country in light of second wave of COVID-19 out-break.

5. **Adoption of guidelines issued by NALSA for release of prisoners:**

Decision: District and Sessions Judges of the districts where jails are situated (ex officio Chairpersons of UTRCs), may hold meetings of UTRC regularly for releasing under-trial prisoners as per criteria detailed by NALSA in the SOP (Standard Operating Procedure). All eligible cases may be taken up and decision taken within 7 days.

(Action: Concerned DSJs and Concerned Superintendents of Jails)

6. **Release of convict prisoners on parole:** ADGP, Prisons briefed the Chair that as per the decisions taken in the 6th HPC meeting dt. 05.02.2021, approx. 3600 convict prisoners, who were released on parole in the year 2020 have surrendered back in jails. The hon'ble Supreme Court of India, vide Order dt. 07.05.2021, has directed to release all such convict prisoners who were earlier released in pursuance of the Order dt. 23.03.2020. After detailed discussions, following decisions were taken:

Decision:

[A] All the convict prisoners who were released under criteria established by HPC from time-to-time, in pursuance of the directions of hon'ble Supreme Court of India dated 23-03-2020 and 13-04-2020 (Suo Motu Writ Petition (Civil) No. 1/2020 – In RE: Contagion of COVID-19 in Prisons), and have surrendered back as per return plan, shall be released immediately on **Special Parole for a period of 90 days**, starting 13.05.2021. However, convicts released on parole but falling in below mentioned categories may not be granted special parole -

- (i) Convicts released on parole who absconded from parole;
- (ii) Convicts released on parole who have not surrendered on the date fixed in the return plan; and
- (iii) Convicts released on parole on whom new cases have been registered while on parole.

(Action: All Superintendents of Jails)

[B] **Criteria to be followed:** A synopsis of the criteria recommended by the HPC and notified by the govt. is placed at Annexure-A. This is a compilation of the criteria established by the HPC from time-to-time for release of prisoners on parole due to COVID pandemic in 2020. Prisoners/Convicts as per criteria in Annexure-A may be released on Special Parole of 90 days.

[C] **Procedure to be followed:**

- (i) Notification under section 3(2A) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 may be issued by the govt. for waiving off the condition of total of 16 weeks' parole in calendar year 2021 as was done last year (2020). This waiver shall be applicable only to those parolees released on parole as per criteria established by HPC.

(Action: PS, Jails)

- (ii) As a one-time measure, till 31st August 2021, powers of granting parole in cases as per criteria of HPC and released last year may be delegated to the Superintendent of the concerned Jail under Section 3(4) of the Punjab Good Conduct Prisoners' (Temporary Release) Act, 1962, by a notification to be issued by the Department of Prisons, Punjab. The relevant provisions are reproduced below for reference.

Sec 3 Temporary release of prisoners on certain grounds;(1) ***-

*(2) ****

*(3) ****

(4) The State Government may by notification authorize any officer to exercise its power under this section in respect of all or any of the ground specified therein.

(Action: PS, Jails)

- (iii) As grant of parole requires execution of a Surety Bond, the following procedure may be followed for facilitating the process of executing the Surety Bond:
 - (a) For the purpose of execution of Surety Bond, the same set of sureties as provided earlier may be accepted, without holding enquiry, if the surety so consents. In case consent is not given by old surety, fresh surety may be taken to the satisfaction of the deputed Executive Magistrate.

- (b) The District Magistrate may depute an empowered Executive Magistrate at each of the jails falling in his jurisdiction. A separate Executive Magistrate may be designated for each jail and may be available every day till all such cases have been dealt with. The deputed Executive Magistrate may process all the Surety Bonds at the jail premises itself.
- (c) For convicts who have been convicted in the period June 2020 to May 2021, and satisfy the criteria established by HPC and have completed 4 months, the same process may be followed as for previously released convicts.

(Action: All District Magistrates and concerned CPs/SSPs)

- [D] ADGP, Prisons may ensure a transparent and streamlined process for release of parolees. To avoid crowding at time of processing papers of convicts for release, detailed instructions for phasing of release, setting up of sufficient no. of counters and maintaining atleast 3 mtr. social distancing be issued by ADGP, Prisons. This process should preferably be completed within a period of 10 days.

(Action: ADGP, Prisons)

- [E] Convicts who do not fall in the criteria mentioned in Annexure A, shall be granted regular parole as per process normally followed and for such periods as provided by law, i.e, 16 weeks in a calendar year, on quarterly basis.

(Action: ADGP, Prisons and concerned Superintendents of Jails)

7. **Release of under-trial prisoners on interim bail:** ADGP, Prisons briefed the Chair that certain criterion were fixed in 1st, 2nd and 3rd HPC meetings held in the year 2020 for releasing under-trial prisoners on interim bail. The process of releasing prisoners on interim bail was stopped w.e.f. 12.02.2021. However, in wake of exponential rise in COVID cases across the country, and in pursuance of the directions of hon'ble Supreme Court of India dt. 07.05.2021, need for decongesting the prisons through release of prisoners on interim bail is desirable.

Decision:

- (a) The HPC recommends that all concerned judicial officers may again start taking up the cases for releasing under-trial prisoners on interim bail w.e.f. 15.05.2021, on the basis of criterion fixed by the HPC in meetings held earlier. A synopsis of the criteria fixed by HPC from time-to-time for release of prisoners on interim bail have been compiled at a single place and attached as **Annexure-B**. This criterion may be followed and undertrial prisoners released accordingly.

(Action: All DSJs and Concerned Judicial Magistrates)

- (b) The HPC further recommends that prisoners released on interim bail as per criteria of HPC be extended till the next meeting of HPC or till the notification under the Epidemic Diseases Act, 1897 is in force, whichever is earlier.

(Action: All DSJs and Concerned Judicial Magistrates)

- (c) As regards directions contained in judgement of Apex Court in Arnesh Kumar V. State of Bihar, (2014) 8 SCC 273, and reiterated in the directions of Apex Court dated 07.05.2021, the HPC recommends that all police officers affecting arrest of alleged offenders and judicial officers/magistrates while adjudating matters for remanding arrested persons to police/judicial custody, may take into account these directions mentioned *ibid*.

8. Updation of prison occupancy and decisions of High Powered Committee

on websites: It was decided that Department of Prisons shall forward all the decisions taken in the meetings of HPC held earlier, as well as the present meeting, to the concerned departments of Govt. of Punjab for uploading the same on their websites. Further, ADGP Prisons apprised the Chair that the department is in the process of launching its own website, and all the decisions mentioned above and prison occupancy will be uploaded on that website also.

(Action: ADGP, Prisons)

9. Release of prisoners presently infected with COVID: A prisoner who is eligible for release on parole as per the criteria established by HPC, but is presently infected with COVID and is lodged in any of the COVID Care Jails, may be released after the completion of his/her treatment. However, if any such prisoner desires to get released, s/he may be released on following conditions:

- (i) An undertaking shall be taken from such prisoner that s/he will stay isolated (home/hospital) and follow COVID related guidelines of the government till the completion of treatment;
- (ii) Such prisoner shall be handed over to the family or admitted in any medical facility, as the case may be, by following all the protocols established by the government from time to time.
- (iii) In case the prisoner is to be handed over to the family, it shall be the responsibility of the family to arrange suitable transport for commuting (ambulance, etc), and ensure that the COVID infected prisoner in isolation during the transit and such prisoner does not become an agent to spread the virus.
- (iv) An intimation in this regard shall be sent to concerned District Magistrate and Civil Surgeon by the concerned Superintendent of Jail.

(Action: All Superintendents of Jails)

10. **Prisoners who desire to stay in jails:** In case a prisoner who is eligible for release on parole wants to stay back in his/her respective jail, he shall be allowed to stay after taking a written declaration from the said prisoner. All Superintendents of Jails shall ensure that proper medical facilities and equipment are made available to all the prisoners lodged in their respective jails, and suitable hygienic environment be provided to all such prisoners, as well as prisons' staff.

(Action: All Superintendents of Jails)

11. **Maintenance of hygiene and sanitation in jails:** Substantial number of prisoners shall be released on parole from jails across the State of Punjab under the criteria established by HPC. This may hamper the process of keeping the prisons clean and maintain hygienic conditions in jails. Hence, HPC call upon the local administration (including municipal bodies/local bodies and other establishments) to come forward to assist prisons in conducting sanitation drives for maintaining cleanliness and hygiene in and around the prisons.

(Action: Concerned Deputy Commissioners)

The meeting ended with thanks to the Chair.

(Praveen K. Sinha), IPS
Addl. Director General of Police,
Prisons, Punjab, Chandigarh.

(D. K. Tiwari), IAS
Principal Secretary,
Jails, Punjab, Chandigarh.

(Justice Ajay Tewari)
Chairperson,
State legal Services Authority