

Here are some glimpses of NGO activities in Delhi Jails

A. Eye check-up camp at Tihar

On 15.4.2010 an eye-check up camp was organized at Central Jail No.8/9 in association with Lions Club : New Delhi South, Delhi, Angels and Delhi, West Mid Town. During the camp 212 inmates got their eyes checked and 132 inmates were provided spectacles free of cost and rest of the inmates got treatment (Medicines & Eye drops). Four inmates suffering from cataract were recommended for operation.



B. Cultural show by SHRAM

SHRAM, NGO and Central Jail No. 9 celebrated Baisakhi on 14th April, 2010. A musical programme was organized for the entertainment of nearly 1500 prison inmates. Various artists like comedian Birbal, Singer Surekha, Bobby Badshah and artists of "Gidda & Bhangra" thrilled the prisoners with their live performances.



C. Holi colours at Tihar Jail

This year Holi was celebrated in the jails with the colours manufactured at women jail, Tihar. The colours were prepared by women inmates by using natural and herbal raw material like flower petals, arrowroot, food-grade colour and natural fragrances. The colours so produced were skin friendly and even edible. The NGO Divya Jyoti Jagriti Sansthan took initiative in this project in association with Prison administration. The colours were also sold through outside outlets to the public and were widely appreciated.



D. International award for Tihar paintings

Two paintings by Tihar inmates won international awards in a competition organized at Vienna in January 2010 in which paintings from 44 countries were displayed. The painting was sent to a contest organized by International Commission of Catholic Prison Pastoral Care. Two Award winning paintings were selected from over 1500 entries. The winners won citations and cash prize of US \$150. Prison inmates, particularly adolescents are being encouraged to take painting as their hobby so that they spend their spare time in creative pursuits. This has to be an effective way to reform prisoners as it gives them a medium to express their feelings.



E. 'SahajYog' For Prison Inmates

SahajYog as propounded by Mata Nirmala Devi is being regularly practised in the jails and hundreds of prisoners have attended these courses run by the NGO. There are 50 NGOs now associated with the Prison administration who are carrying out various reformatory and rehabilitative activities in coordination with Prison Administration.



F. Sant Nirankari Mission

Sant Nirankari Mission an NGO with Prison Administration is working for reformation of prisoners for the last five years. They are conducting classes in moral teaching and are participating in reformation programmes very actively. On 27th December, the mission organised a Satsang which was presided by Sh. 'Amrik Singh. Also, present on the occasion was Major J.D.Sharma, who delivered a sermon on the importance of love between different communities.



G. Armaan

Armaan, a NGO, is working with the Prison Administration for the last nine years and is doing good works in the fields of counseling and vocational training for prisoners. This organisation is also conducting a 'Havan' on every Pournima Day during which prayers for brotherhood and peace are held.



H. Asha ki Kiran

Asha ki kiran has been working with Delhi Jails since 2003. This NGO teaches the prisoners Tanjore painting, Oil Painting Calligraphy etc. At present they have been imparting vocational skills for the benefit of prisoners like Cutting, Stitching, Hand embroidery etc. Prisoners are being paid wages for work done by them



Important Judgements

Writ petition (Criminal) No. 201/2009

Court on its own motion

Versus

State of NCT of Delhi

in the above judgement Hon'ble Delhi High Court has laid down the guide lines for the treatment of terminally ill patients/prisoners. The relevant portion of the judgement is as under:

- "1. Instant writ petition was registered on a suo motu order passed by a Division Bench of this Court in connection with a jail visit made by one of us, Pradeep Nandrajog, J. on 14.2.2009 where at the Jail Hospital 16 terminally ill patients were found admitted and from the medical records available it was found that these inmate patients were at a stage where they could not be cured of the illness suffered by them and the doctors had opined that they could live on for between 2 months to 6 months and no more. These patients required special attendance which was not available at the jail hospital. It was further noted that pertaining to a few patients, their status was that of an under-trial and since they were in no position to be produced in Court and for the reason offence allegedly committed by them was serious, bail was denied to them; with the resultant being, the trial requiring to be deferred and the co-accused being the innocent victim, whose constitutional right to a speedy trial was being violated. We had accordingly required the Central Government to consider
 - (a) Desirability of separating the trial of terminally sick under-trials vis-à-vis the co-accused. The reason is that all accused have to be present in Court unless exempted, for a trial to proceed and it is noticed that on account of a terminally sick under-trial not being produced in Court, the trial against co-accused is prolonged. Needless to state, vis-à-vis co-accused Article 21 of the Constitution is impinged for the reason speedy trial has been held to be an integral facet of life and liberty.
 - (b) Desirability of withdrawing the prosecution against a terminally sick under-trial be considered for the reason before trials complete, terminally sick under-trials are dead."
2. We are happy to note that the Central Government has taken a policy decision and guidelines have been framed and by way of advisory the same have been notified to all State Governments and Union Territory Administrations to be followed. The Guidelines issued are as under :-
 - (i) (a) If an under-trial is terminally ill, the matter may be brought to the notice of the Court concerned and a plea may be made for exemption from appearance on the ground of terminal illness as per provisions contained in Section 317(1) of the Code of Criminal Procedure, 1973.
(b) However, all other accused, if any, would be required to be present in the Court as per provisions contained in Section 317 of the Cr.P.C.
 - (ii) Since the provisions already exist under Section 317(2) of Cr. P.C. for holding separate inquiry or trial in respect of certain accused in certain circumstances, a plea may be made in respect of terminally ill under-trials before the Court that the case of such accused may be taken up or tried separately.
 - (iii) All the State Governments/Union Territory Administration may also consider invoking Section 321 of the Code of Criminal Procedure, 1973 for withdrawing from prosecution of any terminally ill under-trials in respect of any one or more of the offences for which he or she is under trial. This would not need withdrawal from prosecution of the other co-accused.
 - (iv) It may, however, be ensured that withdrawal from trial or prosecution of a terminally sick under-trial does not have any effect on the charges against the other co-accused.
3. We place on record our gratitude to the decision makers who have responded positively to an issue which did certainly require attention.
4. We close further proceedings, taking on record the policy guideline framed by the Union Government with a direction that a copy of our decision may be sent to the Registrars of all the High Courts in India with a request that the same may be forwarded to the respective Secretary of the State Legal Authority for information of the State Legal Authorities since the issue relates to a human right and speedy trial.
5. The file be consigned to the record room."

**Pradeep Nandrajog. J
Siddharth Mridul. J**

Writ petition (Criminal) No. 1470/2008

Saifullah Bajwa & Anr.

Versus

Union of India & Ors.

This judgement dealt with the some Pakistani Prisoners who don't wish to go back to their country.

The text of the Judgement is under:-

" Invoking the jurisdiction under Article 226 of the Constitution of India, the petitioners have prayed for following reliefs:-

"A. Issue a writ of mandamus or in the nature thereof or any other writ, order or directions quashing the order dated 28.01.2010 whereby the representation for grant of Asylum of the 65 detainees of Pakistani origin listed in Annexure A-1 has been rejected by the Respondents by a non-speaking, general order passed in violation of the principles of natural justice without giving any hearing to the Pakistani Nationals.

B. Issue a writ of Certiorari or in the nature thereof or any other writ, order or directions directing the Respondents to reconsider the application for Asylum of the 65 detainees of Pakistani origin listed in Annexure A-1 after granting them an opportunity of personal hearing and pass a reasoned and speaking order after such hearing in order to enable the said persons to submit an appropriate representation against the said order passed therein, if so required; or in the alternative;

Issue a writ of Mandamus or in the nature thereof or any other appropriate writ, order or direction, directing the Respondent No.1 to refer the applications for asylum of the 65 persons of Pakistani origin presently lodged in Tihar Jail, to UNHCR with a request to enable the said persons to obtain naturalization in any willing third country.

C. issue a writ of mandamus or in the nature thereof or any other writ, order or directions restraining the Respondents from deporting the persons listed in Annexure-P1 and five children born in custody while detained by the respondent.

D. Issue a writ of Certiorari or in the nature thereof or any other writ, order or directions directing the Respondents to release the 65 detainees of Pakistani origin listed in Annexure A-1 from detention at Tihar Jail and instead of deporting them to Pakistan, direct the Respondents to hand them over to United Nations High Commissioner for Refugees known as UNHCR on the basis of principle of "non-refoulement".

E. Pass such other and further orders as may be deemed fit and proper in the facts and circumstances of the present case.

Be it noted, on 17th December, 2008 while dealing with CM No.14764/2008, the following order came to be passed:-

The applicant has prayed in this application to implead United Nations High Commission for Refugees (UNHCR) as party respondent to the writ petition. The case of the applicant is that certain letters have been forwarded by the UNHCR wherein the issue of the petitioner has been taken up with the Central Government. Secondly, according to the petitioners in case the Indian Government is not inclined to grant asylum to them, the UNHCR can be approached for the purpose of naturalization in any other country, which is prepared to grant them refugees status.

Notice be issued to the Union of India, returnable for 11th February, 2009.

Prior to that an interim protection was granted.

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When the matter was taken up today, Ms. Meenakshi Arora, learned counsel for the petitioner submitted that United Nations High Commission for Refugees (in short "UNHCR"), has communicated to the petitioner vide E-mail dated 12th May, 2009 which we think it apt to reproduce as under:-
" 65 Pakistani members in Tihar Jail

Dear Ms. Parbhoo,

We would like to acknowledge receipt of letter and email dated 11 May, 2009 concerning the 65 MFI followers in Tihar Jail in New Delhi. Based on our discussion with you in the past and our advice to the MFI, please note that we continue to appreciate the timely information that your foundation has been sending UNHCR regarding the development in this case. As we have informed your foundation previously, while we will not be present at the hearing on 13 May 2009, please be assured that UNHCR continues to closely monitor these developments. As stated in our earlier communications and over the telephone, given the complex legal and diplomatic environment in which UN agencies operate in India. UNHCR will await the courts judgment on this issue.

As always, we assure you that UNHCR remains committed to its mandate. We will continue working with relevant government institutions to ensure respect for the principle of non-re-foulement and the right to seek asylum."

Thankyou,
(UNHCR New Delhi)"

Ms. Meenakshi Arora, learned counsel for the petitioner has also invited our attention to the order passed in the High Court of Judicature at Bombay in Criminal Writ Petition No.2033 of 2005 wherein a letter was issued by the UNHCR and taking the same into account the Division Bench passed the following order:-

"The United Nations High Commissioner for Refugees is directed to hear and dispose of appeal filed by the petitioner, which is pending before it, dated 20/2/2005 within a period of one month from the date of receipt of this order by it. For the said period of one month and two weeks thereafter, the residents shall not deport the petitioner. This order is passed without going into the merits of the petition."

In view of the aforesaid, we only request the United Nations High Commission for Refugees to take a decision within six weeks with regard to a representation to be submitted by the petitioners within a period of one week from today.

The protection order passed by this Court shall remain in force for a period of ten weeks. In the meantime, the petitioners shall not be deported to the country of their origin.

Needless to say, we have not addressed to any other issue which has been urged by the learned counsel for the parties.

The writ petition is accordingly disposed of without any order as to costs.

Order dasti signatures of Court Master.

CHIEF JUSTICE
Manmohan, J

December 02, 2010

Writ petition (Civil) No. 3465/2010

D.M.Bhalla

Versus

State (NCT of Delhi)

In this Judgement directions have been issued to the district courts to send the copy of bail orders to the Superintendent Jail through fax and email

14.07.2010

"Heard Mr. D.M. Bhalla, petitioner in person and Mr. Najmi Waziri, learned standing counsel for Government of NCT of Delhi.

It is submitted by Mr. D.M. Bhalla that the bail orders which are passed by learned Metropolitan Magistrates as well as Additional Sessions Judges are not being sent to the Superintendents of Jails in Delhi as a result of which the undertrial prisoners or convicts are not in a position to avail the benefit of bail expeditiously.

Be it noted, Mr. D.M. Bhalla also advanced many a contention today but same shall be dwelled upon on next date of hearing. Regard being had to the submission which was made before us on earlier part of the day, we requested Mr. Sunil Gupta, Chief Law Officer of Tihar Jail and Ms. Asha Menon, Member Secretary of Delhi Legal Services Authority (in short DLSA) to remain present at a later point of time.

We have been apprised that the bail orders which are passed by the learned trial judges are not being sent on the net. Regard being had to the liberty of the persons, we direct the learned District Judge-I and Sessions Judge, Tis Hazari Courts, Delhi to instruct all trial judges who deal with the bail applications to put the said orders on the net and also communicate the same to the competent jail authorities by fax apart from usual mode. The jail authorities shall act on the basis of the orders received through net as well as by fax by bringing it to the notice of the accused persons/convicts so that they can take appropriate steps advised in law.

Ms. Asha Menon, Member Secretary of DLSA shall oversee how many accused persons/convicts are enlarged on bail after the orders have been passed and submit report to this Court periodically.

Quite apart from the above, the Chief Law Officer, Tihar Jail shall constitute a coordination committee which shall act as directed here in above and thereafter send a copy of the same to the District Judge-I and Sessions Judge, Tis Hazari Courts, Delhi as well as to the Member Secretary, DLSA on weekly basis."

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HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE
MANMOHAN, J