

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.26774 of 2017, 13930, 15660 and 13931 of 2018

W.P.No.26774 of 2017

Suo motu writ petition

Vs

- 1 Government of Tamil Nadu
rep. by its Chief Secretary
Secretariat
Fort St. George Chennai 600 009
- 2 The Principal Secretary to Government
Home Department
Secretariat Fort St. George Chennai 600 009
- 3 The Principal Secretary to Government
Social Welfare Department
Secretariat Fort St. George
Chennai 600 009
- 4 The Principal Secretary/Special Commissioner
Social Defence Department
Old No.153 New No.300
Purasawakkam High Road
Kellys Chennai-10
- 5 The Director General of Police
Tamilnadu Kamarajar Salai Mylapore
Chennai-4
- 6 The Additional Director-General of Police (Prisons)
Egmore, Chennai 600 008

7 The Member Secretary
Tamilnadu State Legal Services Authority
Chennai 600 104

8 The Principal Secretary to Govt.
Health and Family Welfare Dept.
Govt.of Tamil Nadu Chennai - 10
(R8 impleaded vide court order
dt.01.11.2018 by SMKJ and SPJ)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus for the reasons stated in the accompanying judgment dated 15.9.2017 in W.P.(Civil) No.406 of 2013 titled as Re-Inhuman Conditions in 1382 Prisons it is prayed that this Honourable court may be pleased to issue a writ of Mandamus or any other writ or order or direction in the nature of Writ directing the respondents 1 to 6 to award suitable compensation by identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by the National Crime Research Bureau (NCRB) during the period between 2012 and 2015 and even thereafter unless adequate compensation has already been awarded and submit a report of the above compliance before this Honourable Court.

and batch cases.

For Petitioner : Ms.Vaigai, S.C.
Amicus Curiae
in W.P.No.26774 of 2017

For Respondents : Mr.R.Shunmugasundaram
Advocate General
Assisted by
Ms. Shabanam Banu
Government Advocate

Mr.Baratha Chakravarthy,
Public Prosecutor, Puducherry

Mr.Arun Kasi,
Intervenor

Mr.R.Alagumani,
Intervenor

COMMON ORDER

(Made by the Hon'ble Chief Justice)

This matter pertains to the inmates at the various correctional homes in the State and the Union Territory.

2. Pursuant to directions issued by this Court in W.P.No.10486 of 2021 and in the present matter, the High Powered Committees, as constituted by the Supreme Court order during the initial lockdown met, under the aegis of the Legal Services Authorities in the State and the Union Territory. The reports have been filed.

3. As far as the State is concerned, the report speaks of a Covid Care Centre being launched in Puzhal Central Correctional Home. Concerns are expressed on behalf of the intervenors regarding the other Central Correctional Homes. It appears from the report pertaining to the State as filed by the Tamil Nadu State Legal Services Authority that the situation is under control as the number of positive cases among the inmates is not alarming. Several of the inmates, particularly undertrials, are in the process of being released on parole or leave, some times by relaxing the existing rules, so as to ensure less crowding in the correctional homes. In particular, it is indicated that there are seven women with children in correctional homes in the State, out of them, four convicts. Steps have been taken for such persons and the accompanying

children to be given leave as special cases. The same parameters as followed during the initial lockdown have been followed in this case.

4. As far as Puducherry is concerned, it is submitted by learned Amicus that out of 200 inmates in the Correctional Homes, about 64 had tested positive. This alarming rate is a cause for concern.

5. However, it is submitted on behalf of the authorities in Puducherry that of the four correctional homes, including the Central Correctional Home in Puducherry proper, the three in Mahe, Yanam and Karaikkal are not functioning. Karaikkal was in a dilapidated condition even before the pandemic broke out. There are no inmates either at the Mahe or at the Yanam Correctional Homes. The Puducherry Central Correctional Home can accommodate 300 inmates. There were about 200 inmates and the current strength is about 150, after 31 inmates have been given parole or leave. The 64 persons who tested positive were hospitalized and given treatment and all but two of them have recovered and discharged. The two others are still undergoing treatment. There is no case of any fatality.

6. Learned Amicus Curiae appointed in the suo motu proceedings pertaining to correctional homes initiated by this Court submits that the decisions taken by the High Powered Committees under the aegis of the Legal Services Authorities should be published on the Government websites. This is

an appropriate suggestion. The relevant Government Departments should publish the decisions taken by the High Power Committees at the recent meetings setting down parameters for grant of parole or leave of inmates at correctional homes. The process of temporary release of the inmates should be expedited so that the crowding in the correctional homes is brought down to the extent possible.

7. The copies of the reports filed by the Legal Services Authorities along with the Minutes of the meetings of the High Powered Committees will be forwarded to learned Amicus via email.

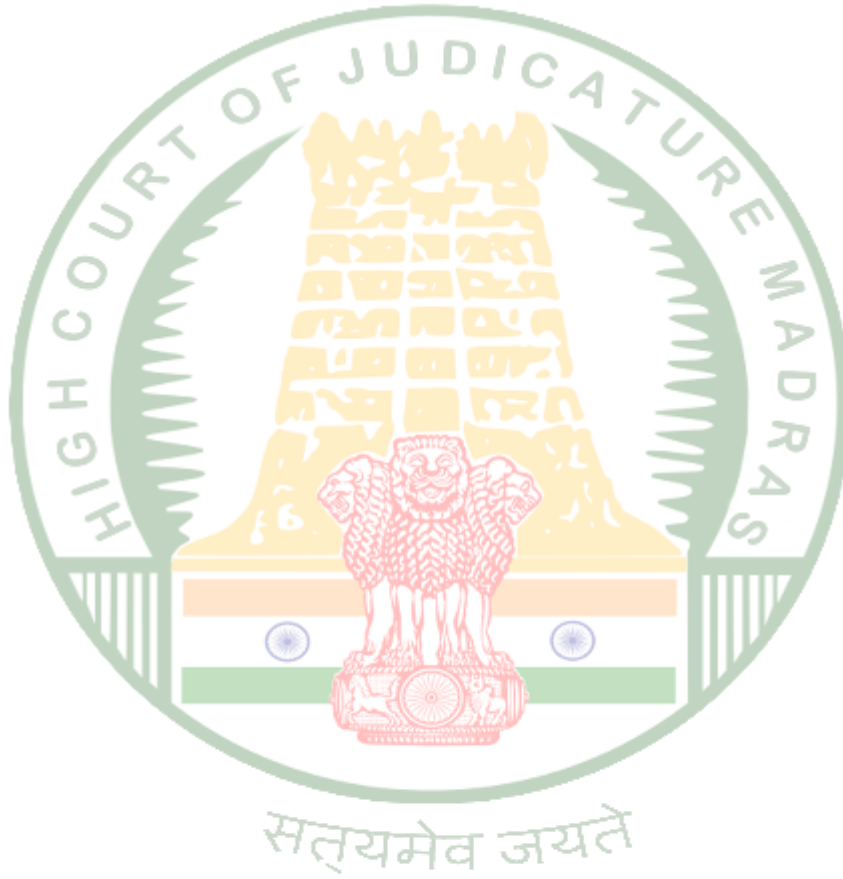
8. It is submitted by an intervenor that during the second surge of the pandemic, all contact between inmates at correctional homes and advocates have been stopped. It is, however, reported that the inmates maintain contact with their relatives.

9. Since there are video conferencing facilities and, in any event, there are video calls possible by way of mobile apps, the authorities at all correctional homes should permit interaction between advocates representing the inmates and the relevant inmates upon setting down certain parameters in such regard. Since the surge has subsided in most places, immediate contact may be permitted as sought, on a rational and reasonable basis.

10. The matter pertaining to the correctional homes will appear a week hence. List on 03.06.2021.

(S.B., CJ.) (S.K.R., J.)
27.05.2021

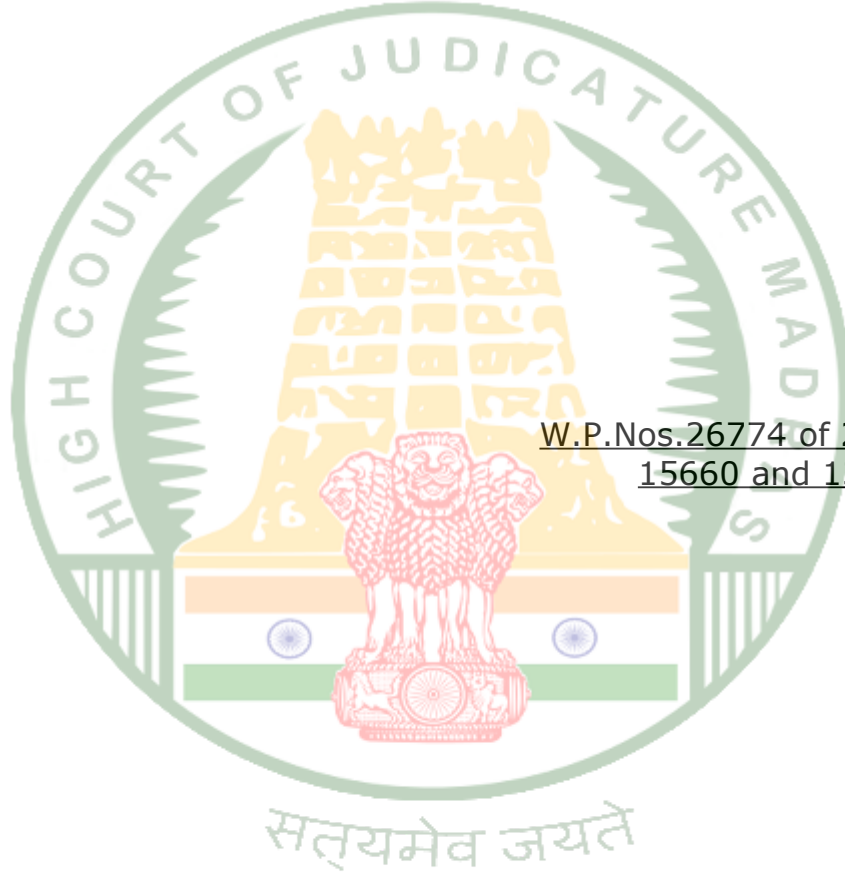
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SENTHILKUMAR RAMAMOORTHY, J.



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