

ITEM NO.2

COURT NO.1

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 559 OF 1994

R.D.UPADHYAY

Petitioner(s)

VERSUS

STATE OF A.P & ORS
(With appln(s) for directions)

Respondent(s)

Civil Appeal NO. 2468 of 1998
(With office report)
WITH SLP(C) NO. 14303-14305 of 1998
(With appln.(s) for c/delay in filing SLP and permission to file SLP)
I.A.No.1 in & S.L.P.(C).../1998 CC NO. 5347
(For permission to file SLP)
W.P(C) NO. 84 of 1998
(With appln.(s) for exemption from filing O.T.)

Date: 08/01/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE J.M. PANCHAL

Mr.Ranjit Kumar, Sr.Adv.(A.C.)
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Ms.Binu Tamta, Adv.(AC.)

For Petitioner(s) Ms.Vinita G.Upadhyay, Adv.
Mr.Girdhar G.Upadhyay, Adv.
Mr.U.K.SHandilya, Adv.
Mr.Vijay Kumar Pandita, Adv.
Ms.Asha Upadhyay, Adv.
Mr. Rajender Pd. Saxena, Adv.

Mr.Manoj Swarup, Adv.
Ms.Lalita Kohli, Adv.
Ms.Charu Singhal, Adv.
For M/S Manoj Swarup & Co., Advs.

Mrs Rachna Gupta, Adv.

Mr. Ambhoj Kumar Sinha, Adv.

For Respondent(s) Mr.Vikas Singh, ASG
Mr.S.W.A.Qadri, Adv
for Mrs.Sushma Suri, Adv.
Mr. B. Krishna Prasad,Adv.
Mr. D.S. Mahra ,Adv
Mr. P. Parmeswaran ,Adv

Ms. A.Subhashini ,Adv

Mr.Anil Kr.Jha, Adv.
Mr.V.P.SIngh, Adv.

Mr. Ashok K. Srivastava ,Adv
Mr.Indrajeet Das, Adv.
Mr.Saurabh Trivedi,Adv.

Mr. Anis Suhrawardy ,Adv

Mr.Rajesh Pathak, Adv.
For Mr. B.B. Singh ,Adv

Mr. Gopal Singh ,Adv

Mr. Guntur Prabhakar ,Adv

Mr. H.K. Puri ,Adv

Ms. Hemantika Wahi ,Adv
Ms.Pinky Behera, Adv.
Ms.Jesal, Adv.
Ms.Shivangi, Adv.
Ms.Sangeeta Singh, Adv.

Mr. K.B. Rohtagi ,Adv

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Ms.Aparna Rohtagi Jain, Adv.
Mr.Mahesh Kasana, Adv.

Ms. Kamini Jaiswal ,Adv

Mr. K. Ram Kumar ,Adv

Ms. Rani Jethmalani ,Adv

Mr. R.S. Suri ,Adv

Mr.Sonam P.Wangdi, AG
Mr.A.Mariarputham, Adv.
Mrs.Aruna Mathur, Adv.

For M/S Arputham, Aruna & Co. ,Advs

Mr. K.R. Sasiprabhu ,Adv

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Mr. Ranjan Mukherjee ,Adv

Mr. V.G. Pragasam ,Adv

Mr.S.Joseph Aristotle, Adv.

Mr.S.Prabhu Ramasubramanian, Adv.

Mr. J.S. Attri ,Adv

Mr. Mukesh K. Giri ,Adv

Mr.Khwairakpam Nobin Singh ,Adv

Mr.David Rao, Adv.

Mr.Tarun Jamwal, Adv.

Ms.Bhawana Thakuri, Adv.

Mr. Radha Shyam Jena ,Adv

Mr. K.K. Rai ,Adv

Mr. Anil Shrivastav ,Adv

Mr.Ritu Raj, Adv.

Mr. Sanjay R. Hegde ,Adv

Mr.Ami Kr.Chawla, Adv.

Mr. Rajiv Mehta ,Adv

Mr. Subramonium Prasad ,Adv

Ms. Kamakshi S. Mehlwal ,Adv

Mr. V.N. Raghupathy ,Adv

Ms. Rachana Srivastava ,Adv

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Mr.Riku Sarma, Adv.

For M/S Corporate Law Group ,Adv

Ms. Kavita Wadia ,Adv

Mr.Manish Sharma, Adv.

Mrs.Suparna Srivastava, Adv.

Mr. Rajesh Srivastava ,Adv

Mr.Govind Goel, Adv.

Mr.Merusagar Samanta Ray, Adv.

Mr.Vairagya Vardhan, Adv.

Mr.Sunny Chowdhary, Adv.

Mr.Ram Naresh Yadav, Adv.

For Mr. C.D. Singh ,Adv

Mrs.Shobha Dixit, Sr.Adv.
Mr.Rajeev Dubey, Adv.
Mr.Manoj Kr.Dwivedi, Adv.
For Mr.G.V.Rao, Adv.

Mr. Ravi Prakash Mehrotra ,Adv

Ms. Sumita Hazarika ,Adv

Ms. Susmita Lal ,Adv

Mr. Gopal Singh, Adv.

Mr.Tara Chandra Sharma, Adv.
Ms.Neelam Sharma, Adv.

Mr.K.N.Madhusoodhanan, Adv.
Mr.R.Sathish, Adv.

Mr.P.V.Dinesh, Adv.
Ms.Sindhu T.P.,Adv.

Mrs.J.Anand, AAG
Mr.Kuldip Singh, Adv.

Mr.Manjit Singh, AAG
for Mr.T.V.George, Adv.

UPON hearing counsel the Court made the following
ORDER

This matter relates to the children of female prisoners in various prisons. This

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Court had issued various directions to protect the interests and welfare of these children who
are

in various jails along with their mothers. This Court had earlier directed all the State Legal

Services Authorities to verify whether and in what manner the interests of these children are

being taken care of. Some of the State Legal Services Authorities have not so far filed any

report. Some of the State Legal Service Authorities have not given the required details fully.

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The Madhya Pradesh State Legal Services Authority has filed its report giving the
details of the steps taken to protect the interests of such children in a detailed form. The

proforma covers all the required details as per the orders passed by this Court. If the other State Legal Service Authorities also give the particulars in that form, it will be convenient for

verification. A proforma is annexed to this order. In the circumstances, we direct that all the

State Legal Services Authorities to furnish the information as per the annexed proforma, prison-

wise, within 8 weeks to have the exact nature of the implementation of the directions of this Court in regard to these children.

The affidavits filed by the Tamil Nadu State Legal Services Authority and some other authorities show that several directions issued by this Court have not been complied with

by the state government. The State Legal Services Authorities may take up the matter with the respective State Governments so that by such interaction the directions of this Court can be complied with without delay. In any case, if there is any difficulty, the matter may be reported to

this Court for appropriate directions within a period of six weeks.

List after eight weeks.

(G.V.Ramana)
Court Master

(Veera Verma)
Court Master
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ANNEXURE

PROFORMA

RE: COMPLIANCE OF DIRECTIONS OF HON'BLE
SUPREME COURT IN W.P.(C)No.559/1994

PRISON: _____ DISTRICT: _____

1. Rights of a child while in jail with his/her mother:

- (1) Food
- (2) Shelter
- (3) Medical care
- (4) Clothing

- (5) Education
- (6) Recreational facilities

2. Pregnancy:

- (a) Whether basic minimum facilities for child delivery as well as for providing prenatal and postnatal care for both the mother and the child are available?
 - (a)(i) Whether the fact of a woman prisoner found are suspected to be pregnant at the time of her admission or any time, is reported by the lady medical officer to the Superintendent?
 - (b)(i) Whether arrangements are made to get such prisoner medically examined of the female wing of the District Government Hospital for ascertaining the state of her health, pregnancy, possible care of delivery and so on?

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- (b)(ii) Whether such a report is being sent to the Inspector General of Prisons stating the date of admission, terms of sentence, date of release, duration of pregnancy and possible date of delivery?

- (c)(i) Whether Gynaecological examination of female prisoner is being performed in the District Government Hospital?

- (c)(ii) Whether proper prenatal and postnatal care is being provided as per medical advice.

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3. Child birth in prison:

- (a) Whether women prisoners are being given suitable option, arrangements for temporary release/parole or suspended sentence in case of minor and casual offenders to enable an expectant prisoner to have her delivery outside the prison?
- (b) Whether birth in prison are being registered in the local birth registration office (the fact of the birth shall not be recorded)?
- (c) Whether all facilities for the naming rights of children born in prison is being/ are being extended?

4. Female prisoners and their children:

- (a) Whether female prisoners are being allowed to keep their children with them in jail till they attain the age of 6 years?
- (b) Whether upon reaching the age of 6 years, the child is handed over to a suitable surrogate as per the wishes of the female prisoner?

Or

Whether the child is being sent to a suitable Institution run by the Social Welfare Department?

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- (c) Whether such children are being kept in protective custody until their mother is released or the child attains such age as to earn his/her livelihood?
- (d) Whether the children kept under such protective custody are being allowed to meet the mother at least once a week (the Director, Social Welfare Department to ensure this on the date fixed by the Superintendent of Prisons)?

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- (e)(i) Whether death of a female prisoner is being informed to the District Magistrate?
- (ii) Whether a District Magistrate is arranging for the proper care of child by placing the child in an approved Institution/ Home run by the State Social Welfare Department or handing the child over to a responsible person for care and maintenance?

5. Food, clothing, medical care and shelter

- (a)(i) Whether the children in jail are being provided with adequate clothing suiting the local climate requirement?
- (ii) Whether the State has laid down any scales
- (b) Whether the state has laid down dietary scales for children keeping in view the calorific requirements of growing children as per medical norms?
- (C) Whether a permanent arrangement has been evolved in the jail to provide

separate food with ingredients to take care of the nutritional needs of children who reside in them on regular basis?

- (d) Whether separate utensils of suitable size and material have been provided to each

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mother prisoner for using to feed her child?

- (e)(i) Whether clean drinking water is being provided to the children?

- (ii) Whether the water is being periodically checked?

- (f)(i) Whether children are being regularly examined by the Lady Medical Officer to monitor their physical growth?

- (ii) Whether they are receiving timely vaccination?

- (iii) Whether Vaccination Charts regarding each child are being kept in the records?

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- (iv) Whether Extra clothing, diet and so on is being provided on the recommendation of Medical Officer?

- (g) Whether in the event of a woman prisoner falling ill, alternative arrangements for looking after any children falling under her care is being made by the jail staff?

- (h) Whether sleeping facilities that are provided to the mother and the child are adequate, clean and hygienic?

- (i) Whether children of prisoners are being allowed visitation?

6. Education and recreation for children of female prisoners:

- (a)(i) Whether the child of female prisoners living in the jails is being given proper education and recreational opportunities?

- (ii) Whether the children are being kept in creches under the charge of a matron/ female warder?

- (iii) Whether this facility is being extended to children of warders and other female prison staff?

(b)(i) Whether there is a creche and a nursery attached to the prison for women where the children of women prisoners are to be looked after?

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(ii) Whether the said creche and nursery are being run outside the prison premises?

7. Whether small children are living in sub-jail which is not equipped to keep small children?

8. Whether the children are being kept separate from convicts, under-trials offenders relating to violent crimes?

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9. Diet

9.(i) Whether breastfeeding on the demand of the baby day and night is being facilitated?

(ii) Whether undiluted fresh milk is being given to the baby?

(iii) Whether the child is being provided at least 600 ml. Of undiluted fresh milk, over 24 hours if the breast milk is not available?

(iv) What is the diet being provided to the children?

Secretary
(State Legal Service Authority)