

(GITEM NO.42

S U P R E M E

Court No.2
C O U R T O F
RECORD OF PROCEEDINGS

SECTION XV

I N D I A

Petition(s) for Special Leave to Appeal (Civil) No(s).26370/2008

(From the judgement and order dated 23/08/2007 in
of The HIGH COURT OF RAJASTHAN AT JAIPUR)

DBCWP No. 2/2007

STATE OF RAJASTHAN

Petitioner(s)

VERSUS

SAJNA

Respondent(s)

(With appln(s) for c/delay in filing SLP and prayer for interim relief
and office report)

WITH S.L.P.(C)...CC NO. 14201 of 2008

(With appln(s) for c/delay in filing SLP With prayer for interim relief
and office report)

S.L.P.(C)...CC NO. 14518 of 2008

(With I.A. No.1 (c/delay in filing SLP)

SLP(C) NO. 26372 of 2008

SLP(C) NO. 28051 of 2008

SLP(C) NO. 28057 of 2008

SLP(C) NO. 28058 of 2008

SLP(C) NO. 28059 of 2008

SLP(C) NO. 29649 of 2008

Date: 01/10/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Dr. Manish Singhvi, AAG, (Raj.)
Mr. D.K. Devesh, Adv.
Mr. Sahil S. Chauhan, Adv.
Mr. Milind Kumar, Adv.

For Respondent(s) Mr. Vijay Kumar, Adv.
Ms. Sangeeta Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned. Leave granted.
The appeals are disposed of in terms of the
signed order.

(Ganga Thakur)
PS to Registrar

(Juginder Kaur)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8536 OF 2010
(Arising out of SLP(C) No.26370/08)

STATE OF RAJASTHAN

Petitioner(s)

VERSUS

SAJNA

Respondent(s)

Civil Appeal	8572	of	2010	@	S.L.P.(C)28504/10 @	CC NO. 14201 of 2008
Civil Appeal	8573	of	2010	@	S.L.P.(C)28505/10 @	CC NO. 14518 of 2008
Civil Appeal	8537	of	2010	@	SLP(C) NO. 26372 of	2008
Civil Appeal	8541	of	2010	@	SLP(C) NO. 28051 of	2008
Civil Appeal	8542	of	2010	@	SLP(C) NO. 28057 of	2008
Civil Appeal	8543	of	2010	@	SLP(C) NO. 28058 of	2008
Civil Appeal	8544	of	2010	@	SLP(C) NO. 28059 of	2008
Civil Appeal	8538	of	2010	@	SLP(C) NO. 29649 of	2008

O R D E R

The delay in filing the SLPs is condoned.

Since the question involved is common in all these matters, they are taken up together for disposal.

Leave granted.

These appeals are directed against the judgment and order dated 23rd August, 2007, passed by the Jaipur Bench of the Rajasthan High Court in Civil Writ Petition No. 2/07, 8994/06, 4/07, 1/07, 10086/06,

1579/07, 3/07, 5/07 and 3280/07, which were disposed of by the Division Bench with the following directions:-

"For these reasons, we direct the State of firstly to carry out a survey and to collect data with regard to the number of prisoners who are eligible for being transferred to the Camps.

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Secondly, to establish Camps at each district headquarter for transferring the eligible prisoners. Thirdly, to ensure that the meeting of the Advisory Committee should take place at least twice in a year to ensure the timely transfer of the eligible prisoners to the Camps. This has to be on-going process in order to ensure that the eligible prisoners are transferred as and when their turn comes. This exercise should be carried out within a period of one year from the date of this order. The State is further directed to consider the cases of the petitioners in accordance with the Rules. Those prisoners, who are found to be eligible under the Rules, should be transferred and adjusted forthwith in the Camps already existing. The State is expected to fulfill this judgment both in spirit and in letter."

The aforesaid directions were given in the context of the provisions of the Rajasthan Prisoners Open Air Camps Rules, 1972, which was framed under Section 59 of the Prisons Act, 1894, in order to

encourage good conduct, satisfactory performance of work and a life of self-discipline among the convicts of Rajasthan, and to provide these convicts with a pre-release opportunity to learn social adjustment and economic self dependence. According to the said Rules, provision has been made for transfer of prisoners who are eligible under the said Rules, to be transferred from prison to Open Air Camps. The respondents in these appeals are all prisoners who have claimed that they are eligible for transfer to these Camps but have

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not been so transferred.

As will be evident from the portion of the order of the Division Bench, three directions have been given to the State Government in keeping with the objections of the aforesaid Rules, namely, (i) to carry out a survey and to collect data with regard to the number of prisoners who are eligible for being transferred to the Camps; (ii) to establish Camps at each district headquarter for transferring the eligible prisoners; and (iii) to ensure that the meeting of the Advisory Committee should take place at least twice in a year to ensure the timely transfer of the eligible prisoners to the Camps.

It has also been indicated that the above has to be an on-going process in order to ensure that the eligible prisoners were transferred as and when their turn came.

Dr. Manish Singhvi, learned Additional Advocate General for the State of Rajasthan, very candidly submitted that the State of Rajasthan has no objection or grievance with regard to the first and third directions, but as far as the second direction is concerned, since the same is subject to financial

constraints, it would be difficult on the part of the State to carry out the said directions.

Having heard Dr. Singhvi, and having considered the submissions made on behalf of the respondents in SLP(C) No. 28051/08, we dispose of all these matters

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by recording the fact that the State will take immediate steps to implement the first and third directions given by the Division Bench in the impugned order. As far as the second direction is concerned, since the State is also under obligation to provide for Open Air Camps, we direct that they shall take steps in terms of the said directions in a progressive and phased manner, subject to availability of resources.

It may also be noted that, as submitted by Dr. Singhvi, ten Open Air Camps are already functioning in the State of Rajasthan.

As far as the respondents, and, in particular, the respondent in the aforesaid SLP is concerned, the State may consider shifting him to an existing Open Air Camp, subject to available accommodation in terms of the Rules, having particular regard to the fact that his period of sentence will be coming to an end in the month of March, 2011.

.....J.
(ALTAMAS KABIR)

.....J.
(A.K. PATNAIK)

New Delhi,
October 01, 2010.