

ITEM NO.2

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No. 1045/2018

HARSH MANDER

Petitioner

VERSUS

UNION OF INDIA & ANR.

Respondents

Date : 19-02-2019 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner

Mr. Prashant Bhushan, AOR
Ms. Cheryl D'Souza, Adv.
Ms. Alice Raj, Adv.
Mr. Omana Kuttan, Adv.

For Respondents/
Applicant(s)

Mr. Tushar Mehta, SG
Ms. Binu Tamta, Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. B.V. Balaram Das, AOR

Mr. Tushar Mehta, SG
Mr. Shuvodeep Roy, AOR
Mr. Rijuk Sarkar, Adv.
Mr. Rajat Nair, Adv.

Ms. Uttara Babbar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

By order dated 31.10.2018, prayers 'f', 'g' and 'h' made in the writ petition have been indicated to be appropriate for consideration alongwith the pending writ petition(s) i.e. W.P.(C) No. 859/2013 etc. The said prayers, therefore, naturally have to be kept out of purview for the present consideration until the same

are heard alongwith the proceedings registered and numbered as W.P.(C) No. 859/2013 etc.

For the present, the Court is of the view that judicial attention would be required to be focused on two primary issues raised in the present writ petition, namely, (i) the living conditions in detention centres and (ii) justification of the long detention of persons identified to be foreigners or convicted under the Foreigners Act, 1946 pending deportation.

The materials disclosed in the affidavit of the State of Assam dated 14.2.2019, would indicate that some of the detenués in the detention centres are for over 9 years. The deportation process presently being followed and the erstwhile process, i.e. pushback as disclosed in the affidavit of the State, would require a detailed consideration alongwith the fact as to whether there could be an alternative to housing the declared foreigners in a detention centre, in the first instance, and whether such detention in the detention centre should be the last option. The affidavit filed by the State of Assam does not cover the said issues as the efforts of the State appear to have been and very rightly, centered around answering the queries raised by this Court by the order dated 28.1.2019.

Mr. Tushar Mehta, learned Solicitor General appearing for the State of Assam has submitted that to satisfactorily answer the issues indicated by the Court, which have been duly recorded in the present order, it will be necessary to have a joint meeting between the Ministry of External Affairs, the Ministry of Home Affairs and the State of Assam. Mr. Mehta has suggested that matter be taken up after two weeks and the intervening period be allowed to the State of Assam and the Union of India to hold necessary deliberations

and revert to the Court.

Having considered the matter, we are of the view that this case should now come up for consideration on 13.3.2019, by which time the stakeholders may be allowed to complete deliberations and report the outcome thereof to the Court.

(Deepak Guglani)
Court Master

(Anand Prakash)
Court Master