

HUMANE APPROACH IN THE SYSTEM OF VISITORS OF INDIAN PRISONS: AN ANALYSIS OF ‘PRESCRIBED PRISONS’

Written by *Dr. Banamali Barik*

Asst. Professor in Mayurbhanj Law College, Baripada

ABSTRACT

The time has gone when prisons were dungeons where prisoners were lodged to pass their days in dark and dingy cells. The new penological approach towards prison inmates has changed from retribution to deterrence and from deterrence to reformation, correction and rehabilitation. In spite of the fact that prison system has undergone a massive change both in its objectives and physical structure, the basic character of prisons as closed institutions with little public scrutiny continues to this day. The present provisions for official and non-official visitors in Prison Manuals of various states are the results of sub-section 25 of section 59 of the Prison Act of 1894, as well as the need for contact with the outside world through visit from or communicating with his/her family members, relatives, friends and legal advisor as well as conjugal visit. The present paper assesses the significance of visiting system with a humane approach and analyses the need for streamlining the functioning of the system in prescribed prisons.

INTRODUCTION

The apex court, in the case of *Rama Murthy v. State of Karnataka*, stressed on the urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State Governments to formulate a new Model Prison Manual. The court also directed state governments to constitute a Board of Visitors comprising official and non-official members at District and Sub-divisional level. Though the concept of non-government intervention in the management of prisons was for the first time conceived in The Prisons Act, 1984, this concept did not find place in the body of main provisions of the act. However, section 59, which speaks of powers to frame rules consistent with this act, empowers the State Government to make rules, “for the appointment and guidance of visitors” in sub-section 25. The provisions for official and non-official visitors in Prison Manuals of various states are the result of this sub-section 25 of section 59 of The Prisons Act, 1894.

The Orissa Jail Manual, 1942 enlists the duties of a prison visitor. A prison visitor, working judiciously, can play a vital role in safeguarding the rights of detainees. The visitor, being an outsider should adopt an unbiased and non-judgmental outlook towards prisoners. It is the visitor’s duty to satisfy himself that the laws, rules and orders regulating the management of prisons and prisoners are duly carried out. The visitor’s duties also include hearing prisoner’s complaints during their visits. A prison visitor has the authority to inspect registers and books and record the detention of an under-trial prisoner, which is forwarded to the District Magistrate or the session’s judge.

The first comprehensive work of studying prison conditions and of making remarkably suitable recommendations for the reformation of both prisons and prisoners was done by the Indian Jail Committee, 1919-20 appointed on the 28th day of April, 1919 under the chairmanship of Sir Alexander G. Cardew, ICS, Member of the Executive Council, Madras, with six distinguished members. This Committee devoted the whole of chapter of XXVIII, to the improvement in the system of ‘visitor’ of prisons.

On the need for external supervision on prisons, the said Committee (1919-20) wrote:

“The plan of appointing persons, official and non-official, to serve as visitors to jails seems to us to form a very valuable part of the Indian system of jail administration. In the first place, it

insures the existence of a body of free and unbiased observers, whose visits serve as a guarantee to the Government and to the public, that the rules of the Prisons Act and Prisons Manuals are duly observed, and that abuses, if they were to spring up, superior to that followed in other countries where the visitors become a part of the prison organization, with definite powers and duties, and so become more or less identified with the prison administration. In India, they remain impartial and independent. In the second place, the existence of non-official visitors is especially valuable as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners. It is of great importance to create such an interest in the public mind and the appointment of non-officials is one of the best methods of promoting this end.

Although, therefore, some of our witnesses have criticized the system, we think it has only to be extended and improved in order to be productive of even greater advantages in the future than in the past.”

The Supreme Court has later added that every prisoner shall be allowed reasonable facilities for seeing or communicating with, his/her family members, relatives, friends and legal advisers for the preparation of an appeal or for procuring bail or for arranging the management of his/her property and family affairs. He/ She shall be allowed to have interviews with his/her family members, relatives, friends and legal advisers once in a fortnight.

BOARD OF VISITORS AND THE EFFECTIVENESS OF THE PRISON VISITING SYSTEM

For the effectiveness of the prison visiting system, there is a provision for the establishment of a ‘Board of Visitors’ for each jail in India. The Board of Visitors is the collective voice of both official and non-official visitors. In 1983, the Mulla Committee Report recommended that, “A Board of Visitors should be constituted for each central and district prison consisting of: Chairman- the District and Session Judge; and Members: two members of the state legislature, District Magistrate, District Superintendent of Police, Civil Surgeon, Executive Engineer of Public Work Department, District Education Officer, District Public Health Officer, District Agriculture Officer, two lady social workers.” The Model Prison Manual, 2003 also

recommends a similar constitution of the Board of Visitors as given in the Mulla Committee Report. The frequency of prison visits by the Board of Visitors also differs from state to state.

The functions of the Board of Visitors as gathered from different committee reports and state prison manuals include:

- (i) Visiting the prison central, district, sub-jail and ensure that care and welfare of the inmates are properly attended to.
- (ii) Attending to request of inmates.
- (iii) Making recommendations about the redressal of grievances and complaints of prisoners and also about living conditions in prisons.
- (iv) Helping prison administration in the development of correctional programmes.
- (v) Monitoring the correctional work in the prison with special attention to the degree and quality of training and the effectiveness of infrastructure/facilities in the prison.
- (vi) Suggesting new avenues leading to improvement in correctional work.
- (vii) Going in to individual or collective grievances of the prisoners and providing redressal in consultation with the prison authorities.
- (viii) Attending to the quality and quantity of prison diet, condition of the kitchen and hospital, availability of medicines, hospital management, medical treatment of the prisoners, sanitary arrangements, and aspect of vocational trainings, literacy programmes, and library facilities for the prisoners.
- (ix) Regulating periodic prison visit by official and non-official visitors through the 'roster of visitors'.
- (x) Ensuring at least one visit to the prison per month by an agency other than the officials of the department.
- (xi) Involving all persons nominated as official or non-official visitors and to give each one of them some occasions to visit the prison and
- (xii) Providing a forum to discuss the problems of prisons and prisoners outside the intervention of the prison department.

The above recommendations by jail committees and rules of jail manual, prison visitors was created to provide for an free agency to ensure care and welfare of inmates in prisons. The system has, however, neither functioned satisfactory nor visitors' visiting regularly.

BOARD OF VISITORS AND MODEL PRISON MANUAL, 2016

The Model Prison Manual, 2016 has recommended the constitution of Board of members as official and non-official prison visitors.

The Board of Visitors shall comprise the following official members:

- (i) The District Judge at the District level, or the sub-Divisional Judicial Magistrate exercising jurisdiction, at sub-Division level.
- (ii) The District Magistrate, at the District level or sub-Divisional officer at Sub-Divisional level.
- (iii) District Superintendent of Police.
- (iv) The Chief Medical Officer of the Health Department, at the District level or the Sub-Divisional level.
- (v) The Executive Engineer, PWD at the District level, or Assistant Engineer PWD at Sub-Divisional level.
- (vi) The District Education Officer dealing with literacy programmes.
- (vii) District Social Welfare Officer.
- (viii) District Employment Officer.
- (ix) District Agriculture Officer.
- (x) District Industrial Officer.

The Board shall make at least one visit per quarter and for this purpose, presence of three members and the chairman shall constitute quorum.

The Board of Visitors shall also comprise the following Non-Official Members:

- (a) Three Member of the Legislative Assembly of the state of which one should be a woman.

- (b) A nominee of the State Human Rights Commission.
- (c) Two social workers of the District/Sub-Division; one of them shall be a woman having an interest in the administration of prisons and welfare of prisoners.

Function of the Board of Visitors according to Model Prison Manual, 2016:

- (i) The District Judge shall be the Chairman of the Board of Visitors at District level and the Sub-Divisional Judicial Magistrate shall be the Chairman at Sub-Division level. The Non-Official visitors after their appointment must be sensitized and trained about their duties, roles and responsibilities.
- (ii) The Board Visitor shall meet in the office of the Superintendent of prisoners at least once in every quarter.
- (iii) The minute of every meeting of the Board of Visitors shall be recorded in the in the Visitors' Minute Book, and the same shall be forwarded to the Inspector General of Prisons with comments of the Superintendent. A copy of the minutes shall also be dispatched to every member of the Board of Visitors. The Inspector General of Prisons shall place a copy of the minute of the last meeting/meetings of the Board of Visitor of all the prisons before the State Advisory Board.
- (iv) When a non-official member of the Board of Visitors visits a prison he shall be accompanied by at least one more member (official or non-official). The Chairman of the Board of Visitors shall make a monthly roster of visits to be paid by the members of the Board to the Prisons, in consultation with the Superintendent.

The roster shall be made in such a manner as will envisage at least one visit by a member in every month.

- (v) Every non-official visitor is expected to interest himself in the upkeep of prisoners and visit the prison of which he is a visitor, once a month, and oftener, if possible.
- (vi) During visits, a Visitor (Member of the Board of Visitors) shall enjoy the right to converse secretly and separately with any prisoner who is willing to talk to the Visitor. However such separate interaction between a Visitor and prisoner shall be held in a place within the prison sight of a prison officer. The Visitor, immediately after such conversation with a prisoner, shall inform the Chairman of the Board in

- writing about what transpired in the conversation with the prisoners. The Chairman, if he thinks it necessary, shall take up the matter with the Superintendent of prison.
- (vii) Any observation/comments made in the Visitors, Minute Book, by any member of the Board, shall be forthwith brought to the notice of the Inspector General of Prisons by the Superintendent, along with his own comments. The copy of the same shall also be sent to the Visitor concerned and the Chairman of the Board of Visitors.
 - (viii) The Members of the Board of Visitors shall specially attend to quality and quantity of Prison diet, condition of the kitchen and hospital, availability of medicines, hospital management, medical treatment of the prisoners, sanitary arrangements, and aspects of vocational trainings, literacy program, and library facility for the prisoners.
 - (ix) The Superintendent shall present before the visiting member/members of the Board of Visitors any paper/document pertaining to correctional work, recreation and training of prisoners, prison diets/medicines, grievances of prisoners and follow redressal of such grievance, if it is sought by a visiting member of the Board.
 - (x) The Superintendent shall not be bound to present any Register/Document/paper pertaining to financial accounts before a member of the Board of Visitors without written approval of the Inspector General of Prisons.
 - (xi) The Superintendent shall ensure that the prisoners lodging complaints with the visiting member/members of the Board of Visitor do not subsequently fall prey to vendetta of the accused or prison staff complained against.
 - (xii) Following any such visits by member/members of the Board of Visitors, the Superintendent shall inform the Inspector General of Prison regarding the details of the visit.
 - (xiii) For the purpose of a meeting of the Board of Visitors One official Visitor and two non-official Visitors shall form a quorum.
 - (xiv) A Non-official Member of the Board of Visitors shall hold office for a period of two years from the date his appointment to the Board, and may be considered for reappointment.

- (xv) The appointing authority may cancel the appointment of any non-official visitor for reasons to be recorded in writing. Removal of non-official visitors must not be arbitrary and should be based on a sound reasoning. In particular, any removal must be made after following principles of natural justice.
- (xvi) A non-official member of the Board of Visitors shall receive allowances as may be sanctioned by the government from time to time, for attending meeting of the Board of Visitors.

Duties of Visitors under Model Prison Manual, 2016, all visitors, official and non-official, at every visit shall: examine the cooked food;

- (a) inspect the barracks, wards, work-sheds and other building of the prison generally;
- (b) ascertain whether considerations of health, cleanliness and security are attended to, whether proper management and discipline is maintained in every respect and whether any prisoner is illegally detained, or is detained for undue length of time while awaiting trial;
- (c) examine prison registers and records, except secret records and records pertaining to accounts;
- (d) hear and attend to all representation and petitions made by or on behalf of the prisoners;
- (e) direct, if deemed advisable, that any such representation or petition be forwarded to the Government; and
- (f) Suggest new avenues for improvement in correctional work.

The above functioning and monitoring the correctional work in prisons, as members of 'Board of Visitors' is going into individual or collective grievances of prisoners' and providing redressal consultation with the prison authorities.

PRISONERS 'CONTACT WITH THE OUTSIDE WORLD THROUGH VISITS

Principle-9 of Body of Principles for the Protection of All Persons Any Form of Detention or Imprisonment provides:

The detained or imprisonment person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

Rule-37 of the Standard Minimum Rules for the Treatment of Prisoners provides:

Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

Model Prison Manual, 2003, provides reasonable facilities to inmates:

- Every prisoner shall be allowed reasonable facilities for seeing or communicating with, his/her family members, relative, friends and advisors for the preparation of an appeal or for procuring bail or for arranging the management of his/her family members relatives, friends and legal advisers once in a fortnight. The number of letters a prisoner can write in a month shall be fixed by the Government under the rules.
- On admission, every prisoner should submit a list of persons who are likely to interview him/her and the interview shall be restricted to such family members, relatives and friends. The conversation at the interview shall be limited to private and domestic matters and there shall be no reference to prison administration and discipline and to other prisoners or politics. The number of persons who may interview a prisoner at one time shall ordinarily be limited to three.
- The maximum duration of the interview shall be half an hour, which can be further extended by the superintendent of prisons at his direction.

Now these International obligations and various rules of jail manual are not assees to the significance of visiting system in prisons.

GUIDELINES OF THE MINISTRY OF HOME AFFAIRS FOR ALLOWING VISITORS INSIDE JAILS

Apart from the Official and Non-Official Visitors, The Government of India has issued guidelines to be followed scrupulously by all the states, while allowing entry into the prison to any individual/press/NGOs or company, whether Indian or foreigner for the purposes of making documentaries, writing articles, interviewing inmates or any other similar research activity.

No private individual /Press/ NGOs / Company should ordinarily be allowed entry into the prison for the purposes of doing research, making documentaries, writing articles or interviews etc. These guidelines shall be applicable to all visitors, whether foreigner or Indian including individuals, companies, press, researchers, filmmakers.

PRISONERS' CONJUGAL VISITATION

The very recent land mark ruling of the Punjab and Haryana High Court in the case of Jasvir Singh and others, sparked off an old debate. Pioneering the case, Justice Surya Kant ruled in favour of the prisoners' right to procreation or alternatively artificial insemination. In January of 2010, while hearing public interest litigation on treatment facilities for HIV positive prison inmates, the Bombay High Court had directed the Maharashtra government to examine the possibility of allowing jail inmates to engage sexually with their wives in privacy within the jail premises. Justice Majumdar in this regards observed:

“There may be physical needs. See whether a separate place can be given to a prisoner and his wife for a day or two. The Government is spending crores of rupees to curb the AID menace in jails. Instead why don't you take preventive steps”?

The recent ruling is a wakeup call for policy and decision makers to mine international documents and human rights norms that recognize the necessity of punishment and the same time outline a standard for the safety of individuals in custody, the protection of human dignity and the acknowledgement of their right to sexual self-expression.

BOARD OF VISITORS IN ODISHA PRISONS

In Odisha, the Board of Visitors comprising three members, both non-official and official visitors are expected to meet quarterly. As all the visitors have not yet been appointed, these quarterly meetings are not held. The District Magistrate, who is also the Chairperson of the Board of Visitors, is responsible for scheduling the roster of weekly visits by the visitors (both official and non-official) to give each visitor their due turn.

When compared to the working of the District Committee, it can be said that the Board of Visitors are lagging far behind. The practice of holding District Committee Meeting quarterly is more frequently undertaken, and the district judge who is the Chairperson of the District Review Committee visits the prisons on a monthly basis.

The compositions of Board of Visitors in state of Odisha are:

Official Visitors of all jails in the State: Revenue, Divisional Commissioner, Inspector General of Police, Director of Health Services, Director of Industries, Director of Agriculture, Director of Fisheries, Director of textiles, Director of Public Health. Of all jails within their respective Jurisdiction such as District and Session Judges, Magistrate or Deputy Commissioner of the District, District Superintendent of Police, Additional District Magistrate (Executive and Judicial), Sub-Divisional Magistrate and Officer at District Headquarters, Chief District Medical Officer, Executive Engineer, Inspector of Schools, District Agriculture Officer, District Industries Officer, Fisheries Officer, Chairman of Municipality/ NAC. And Non-Official Visitors- Central/Circle-6 (including 2 female), and District and other jails-5 (including 1 female).

PRISON VISITING SYSTEM IN ODISHA

The prison visiting system in Odisha is largely dysfunctional. As per the information from the special officer from the I G of Prison's Office, in most of the prisons, non-official visitors have not yet been appointed. In the prisons where appointments have been made, most of the non-official visitors are political appointees instead of being members of the community who are likely to take an interest in the welfare of prisons and prisoners. They are unaware of the roles

and responsibilities of visitors. For instance, the Choudwar Circle Jail had six-non-official visitors appointed for a two years term from May 2008 to May 2010. Four of them were members of the legislative assembly, while two were members of parliament. The Balasore District Jail had two members of the legislative assembly.

The Orissa Jail Manual, 1942 mandates the appointment of two women visitors for each central jail and one for each district jail in prisons that house women prisoners.

All the prisons visited by the research team house women prisoners. Of the six non-official visitors appointed to Choudwar Circle Jail, two were women and Bhadrak Special Sub-Jail had one women visitors of the five appointed Balasore District Jail also had one woman non-official visitor.

Of the seven prisons visited, no non-official visitors have been appointed for Berhampur Circle jail and Puri District Jail. Despite being a circle jail, Berhampur does not have any non-official visitors for last few years. The superintendent of Puri Jail has not been successful in getting the non-official visitors appointed, in spite of several reminders to the District Collector. Even though non-official visitors were appointed for five prisons, in Bhubaneswer Special Jail the non-official visitors had stopped visiting. In other four jails the visitors attended irregularly. Of the non-official visitors appointed to Bhadrak Special Sub-jail, only one visited in June 2008, shortly after her appointment. However, she did not record her comments in the visitors' register. The last comment in the non-official visitors, register was dated 19th January 2005. According to the rules, the appointment of such non-official visitors should be cancelled.

Rule 44 of the Orissa Jail Manual, requires that a non-official visitors who expects to be absent for a period of more than six months should give prior intimation to the District Magistrate, and aid in the appointment of a substitute. If the visitor fails to do so she/he shall be regarded as having vacated the office on the expiry of three months from the date of her/his departure.

Those non-official visitors who visit the jail do talk to under-trail prisoners and ask them if they have any grievances, but none of them inspect the registers maintained for under-trail prisoners. All of them are concerned about the food, health and the sanitation conditions in the jail, but not about the larger issues such as prolonged detention, release of under-trails or overcrowding.

In practice, District and Session Judges function as ex-officio visitors to jails in their jurisdiction. It is their highest responsibility to ensure the minimum constitutional guarantees to those housed under judicial custody.

BHADRAK SPECIAL SUB JAIL IN THE DISTRICT OF BHADRAK, ODISHA

The Bhadrak Special Sub Jail, Bhadrak was established during the year of 1915 on a small area of 1.29 acres. Though proposal is there for construction and shifting to another place, but the place is not decided till date. During my visit, Sri Sunaram Singh superintendent-cum-jailor and other staff participate with me. I examined the visiting hours and facilities of inmates to meet their relatives or families and also overcrowding problems.

Prison Population as on 31/12/2015:-

The Sanctioned capacity and the present strength of prisoners are given in the following tables:

Table - I

Sanctioned Capacity As on 31/12/2015	Male	Female	Total
Convicts	79	03	82
U.T.Ps	69	03	72
Others	12	-	12
Total	160	06	166

Source: Bhadrak Special Sub Jail

Table - II

The Prison Population as on 31/12/2015	Male	Female	Total
Sessions	89	01	90
Remands	146	10	156
Simple Imprisonment	04	-	04
Rigorous Imprisonment	44	02	46
Total	283	13	296

Source: Bhadrak Special Sub Jail

From these figures it would appear that:-

The prison is over populated. Around 83% of the prisoners are under trials.

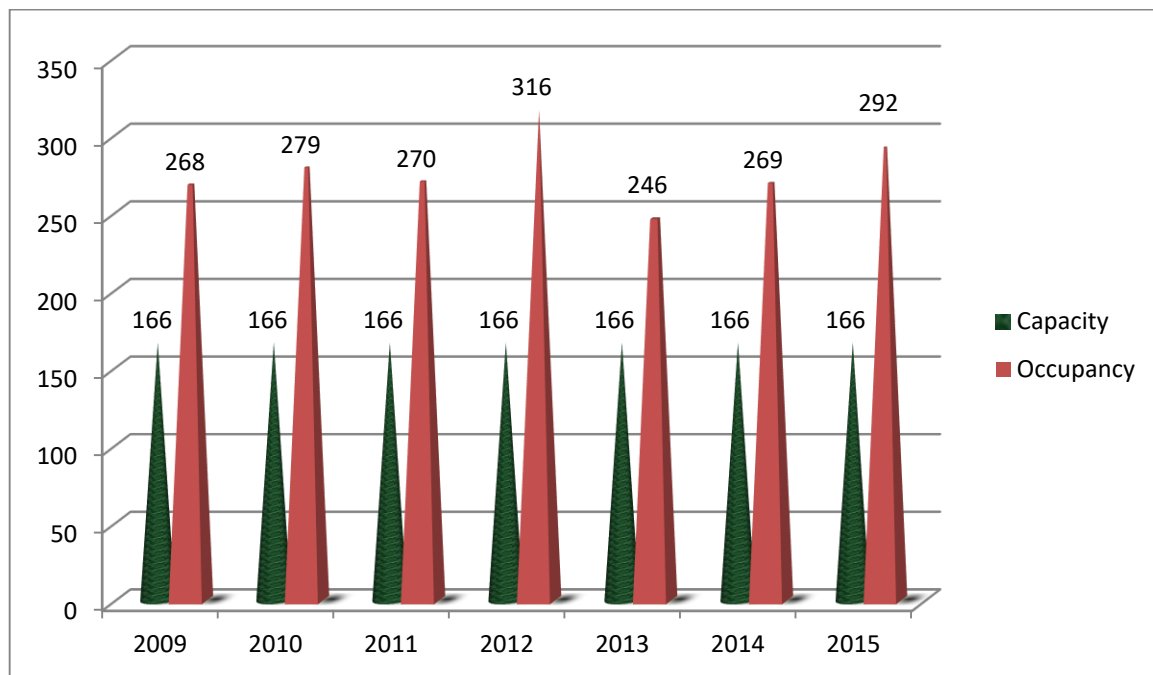
Prison statistic from 31/12/2009 TO 31/12/2015

Table - III

As On	Male			Female			Total		
	Convicts	U.T.Ps	Others	Convicts	U.T.Ps	Others	Convicts	U.T.Ps	Others
31/12/2009	83	158	01	06(1)	20(2)	-	89(1)	178(2)	01
31/12/2010	86	168	-	05(2)	20(30)	-	91	188(2)	-
31/12/2011	81	175	01	02	11	-	83	186	01
31/12/2012	94	209	02	02	9(1)	-	96	218(1)	02
31/12/2013	73	161	04	02	06	-	75	167	04
31/12/2014	51	209	-	02	7(1)	-	53	216(1)	-
31/12/2015	44	235	04	02	11	-	46	246	04

Source: Bhadrak Special Sub Jail

Capacity and occupancy of inmates in Bhadrak Special Sub Jail, Bhadrak at the end of 2009-15



Year Wise

Source: Bhadrak Special Sub Jail

The above figure shows that the population of inmates from the end of 2009 to 2015 is over populated and the highest over-populated in the jail was in 2012 and the lowest was in 2013.

OBSERVATION

I observed that the said jail is overpopulated from 2009 to 2015. The visiting hour for relatives/outside is from 9 A.M. to 12 noon and 3 P.M. to 5 P.M. in working days. But the space in the visiting hall is too small i.e. 5'x5'. And identification proof and applications of visitors to meet the inmates required, sometimes put the visitors in trouble as there is no one to help the illiterate visitors in any way. Further I observed that inside the jail, during visiting hours, it is difficult to meet relatives or family as there is a lot of noise and everyone is shouting in a common room. And also the visitors were allowed maximum 5 minutes with the present of warder to contact their relative inmates. Paying of bribes prevalent of corruption is common in the jails all over the country but here the silence of the incumbents/visitors hinted so. As the

jail is overpopulated, it is natural that the number of visitors is also high and creates problem for the jail staffs as well as the visitors/inmates.

JUDICIAL TRENDS TOWARDS PRISON VISITORS

“The Court has a continuing responsibility to ensure that the constitutional purpose of the deprivation is not defeated by prison administration”

In historical judgment in *Sunil Batra V. Delhi Administration*, The apex court held that prisoners are entitled to all fundamental rights which are consistent with their incarceration. Emphasizing the need for humane treatment of prisoners and protection of their basic human rights, the Supreme Court in *Sunil Batra-II*, observed as follows:

“Fundamental rights do not flee the persons as he enters the prison although they may suffer shrinkage necessitated by incarceration.”

Outlining the substantive and procedural rights to which the prisoners are entitled, the Apex Court said:

“Infliction may take many protection forms apart from physical assaults. Pushing the prisoners into a solitary cell, denial of necessary amenity, and more dreadful sometimes, transfer to a distant prison where visits or society of friends or relations may be snapped, allotment of degrading labour, assigning him to a desperate or tough gang and the like, may be punitive in effect. Every such affiliation or abridgment is an infraction of liberty or life in its wider sense and cannot be sustained.”

The Court concluded that torture is a tradition in many penal institutions. That is why as a matter of policy; Article 8 and 9 of the Declaration of the Protection of all persons from torture and other cruel, inhuman and degrading treatment of punishment adopted by U N General Assembly should be implemented by all nations.

In *Ranchod V. State of M.P.*,⁶¹ in which the callous behavior of jail doctors, maltreatment by jail staff and tampering of jail records came up for judicial scrutiny. All went on for years with the Prison Visitors and Visiting Boards apparently oblivious of it all. According to the facts of

the case an inmate of the Central Prison of Indore had died of utter negligence on the part of prison administration and the medical staff posted there. A letter written by two co-inmates of the deceased was admitted by the High Court of Madhya Pradesh as a writ petition and was decided by Hon'ble Justice V.D. Gyani and Justice B.B.L. Shrivastava. Reacting sharply to the facts on record Justice V.D. Gyani, Judge of M.P. High Court observed:

“The petition has many facets exposing the negligence of authorities, callous disregard to duty by all concerned, including the jail staff, the Executive Magistrate, the Visitors to jail appointed by the State Government, the District Judge, the police and the unethical conduct of doctors.....”

“This letter petition brings into sharp focus and throws light on many other ills besetting the system. Do our District and Sessions Judges, who are ex-officio visitor to the jail within their respective jurisdiction, the Director of Health Services, the Civil Surgeon or Medical Officers, the representatives of people representing particular urban or rural constituency in the State Legislative and the non-official visitors, as appointeddo they satisfy themselves that the law, , rules regulating the management of prisons and prisoners are duly carried out? Their duties are enumerated in the jail Manual. They can call for and inspect any book or other record in the jail. Have they regularly visited the jail so as to apprise themselves of the genuine problems the prisoners are facing and their grievances? The non-official visitors to the jail, appointed by the State Government, have they justified their appointment by getting themselves acquainted with the prisoners' problems and making efforts for amelioration of their lot, within the framework of the Jail Manual itself; if all this had been going on smoothly. ' As is expected and sought to be, possible there was no need for.... this letter petition. The question looms large, who bothers.....”

In spite of such eye opening judgments and aspersions, prison conditions in the country continue to be appalling.

The system of prison visitors is still considered by prison staff as un-necessary intrusion in their work, and non-official visitors reduce their functions to mere clerical formality in the absence of any accountability.

The visits of ex-officio visitors of prisons are not as regular and purposeful as intended in the rules. Hon'ble Justice J. S. Verma, former Chief Justice of India and later Chairperson of the National Human Rights Commission, addressing a letter to the Chief Justices of all High Courts with regard to human rights in prisons, wrote on 1st January, 2000:

“The state Prison Manuals contain provisions for District and Sessions Judges to function as ex-officio visitors to jail within their jurisdiction so as to ensure that prison inmates are not denied certain basic minimum standards of health, hygiene and institutional treatment. The prisoners are in judicial custody and hence it is incumbent upon the Sessions Judges to monitor their living conditions and ensure that humane conditions prevail within the prison walls also. Justice Krishna Iyer has aptly remarked that the prison gates are not an iron curtain between the prisoner and human rights. In addition the Supreme Court specifically directed that the District and Session Judges must visit prisons for this purpose and consider this part of duty as an essential function attached to their office. They should make expeditious enquiries into the grievances of the prisoners and take suitable corrective measures.

During visits to various district prisons, the Commission has been informed that the Session Judges are not regular in visiting prisons and the District Committee headed by Session Judge/District Magistrate and comprised of senior Superintendent of Police is not meeting at regular intervals to review the conditions of the prisoners.”

He implored Chief Justice to consider giving appropriate instructions to the District and Sessions Judges to take necessary step to resolve this acute problem as it has the impact of violating a human right which is given the status of constitutional.

CONCLUSION

Under the Indian Constitution, prison is a subject of State List i.e. Entry-4, List-II of the Seventh Schedule. Hence, prisons in different states vary in their organization, rules and model. In 1920, the Indian Jail Committee Report recommended that the local government may direct the appointment of sufficient number of official and non-official visitors in every central, district and subsidiary jails. Several committees' reports and judicial decisions have recognized

the need for a reformative correctional system instead of retributive. However, there are little progressive provisions in these antiquated statutes such as the prison visiting system and the reporting system that ensure transparency and accountability in the functioning of prisons. The State Government should streamline the functioning of this system by amending the rules and regulations.

According to Prison Statistic India, 2015, 67.2% of total numbers of inmates are under-trial. District and Session Judge is an ex-officio visitor to jail, his/her supervision should be highest responsibility to ensure the minimum constitutional guarantees to those housed under judicial custody.

