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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 2742/2017

JAMAL @ RANJHA THR. ARVIND KUMAR (IN-PERSON)

..... Petitioner

Through: Mr. Mahmood Pracha with Mr. Arvind Kumar,
Mr. R.H.A.Sikander, Mr. Prateek Gupta,
Mohd. Shariq & Mohd.Danish, Advs.

versus

NCT OF DELHI & ORS.

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel (Criminal)
with Mr. Jamal Akhtar, Prashant Singh &
Mr. Chaitanya Gosain, Advs.
Inspector Rajesh & ASI Surender Dutt.

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W.P.(CRL) 2743/2017

HARVINDER SINGH BINDI & ANR.

..... Petitioners

Through: Mr. Gurbaksh Singh, Adv.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Criminal)
with Mr. Jamal Akhtar, Prashant Singh &
Mr. Chaitanya Gosain, Advs.

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W.P.(CRL) 2815/2017

SACHIN

..... Petitioner

Through: Mr. Gurbaksh Singh, Adv.

versus

STATE OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Criminal)
with Mr. Jamal Akhtar, Prashant Singh &
Mr. Chaitanya Gosain, Advs.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
01.11.2017

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CrI.M.A.15766/2017(exemption) in W.P.(CRL) 2742/2017
CrI.M.A.15744/2017(exemption) in W.P.(CRL) 2743/2017
CrI.M.A.16244/2017(exemption) in W.P.(CRL) 2815/2017

1. Applications are allowed, subject to all just exceptions.

W.P.(CRL) 2742, 2743 and 2815/2017

2. An Inquiry report has been submitted by the Superintendent Headquarters, Tihar in a sealed cover under the cover of a letter dated 13th October 2017. The report has been perused. One copy of the report has been handed over by Mr. Rahul Mehra, learned Standing counsel for the Respondents to the counsel for the Petitioners. They may make further copies thereof for their purposes.

3. Counsel for the Petitioners are permitted to file their response to the inquiry report by the next date. Some of them have prayed that their respective clients need further medical treatment at a medical facility other than the Jail Hospital.

4. From the reports submitted to the Court by AIIMS, Safdarjung Hospital and LNJP Hospital, it appears that an appropriate treatment was provided

and the further treatment was given at the jail hospital itself. Nevertheless, if any of the Petitioners require any specific treatment, they should make out a case by filing an application on which the Court which can pass an appropriate order. For this purpose, copies of the annexures to the status reports and the medical reports shall also be provided by Mr. Rahul Mehra to the learned counsel for the Petitioners without delay.

5. The Court, at this point in time, considers it necessary to advert to one aspect highlighted in the Inquiry report of the Superintendent Tihar Jail. In Page 29 of the report, it is stated as under:

“As reported and available from the records, it was unfortunate that CCTV cameras were out of order on 14.09.2017 as technical defect occurred for sometimes was so severe that out of total 83 CCTV cameras (Phase-I & II) installed at different prominent sites in Jail No.3, Tihar, only 19 CCTV camera were operational as the fault occurred in the server hard disc and therefore the incident of brawl could not be recorded to ascertain veracity of allegations.”

6. Mr. Rahul Mehra was asked whether the CCTV cameras in Jail No. 3 were out of order even earlier to 14th September, 2017. On instructions from the Law Officer of Tihar Jail, Mr. Prakash Kumar, Mr. Mehra informs the Court that the 64 CCTV cameras in Jail No. 3 were out of order since 11th September 2017. The said CCTV cameras were rectified only on 21st September 2017, i.e. a full 10 days after they had gone out of order. He further informs the Court, on instructions, that these 83 CCTV cameras are only for Jail No.3 whereas in the entirety of Tihar Jail there are more than 500 CCTV cameras at various locations. He further states that at any given point of time, at least 10% of these CCTV cameras are not functional.

Further there is only one technical person available, on contract basis, to attend to complaints.

7. Tihar Jail is one of the largest jails in the country with an inmate population of over 14,500. It is sought to be projected as a 'model jail'. Considering that the capacity of the jail is around 6000, it is plainly overcrowded by over 100%. It is undoubtedly a high security zone. It should be needless to emphasise that the proper functioning of CCTV cameras in Tihar jail complex, on a continuous basis, is an non-compromisable imperative.

8. The Court is unable to appreciate, how for over 10 days, only 19 out of 83 CCTV cameras installed in Jail No.3 were operational without immediate corrective action being taken. A CCTV camera that has gone out of order should have been rectified in the shortest possible time, at the highest within a few hours. It is surprising that the Inquiry Report mentions the above fact but does not concern itself with the obvious delay in getting the CCTV cameras rectified.

9. Considering that at any point in time at least 10% of the over 500 CCTV cameras in the Tihar Jail complex are non-functional, it is essential to have the issue thoroughly examined from all angles by an independent three-member body none of whose members is in any manner associated with the Tihar Jail administration. The Court is aware that the Tihar Jail is under the jurisdiction of the Home Department of the Government of NCT of Delhi. However, to ensure that the exercise is entirely objective and impartial, the

Court is of the view that the three member body should not have representatives even of the GNCTD, although it should get the active cooperation of the Tihar Jail administration and the GNCTD.

10. The Court accordingly directs that:

(i) The Secretary, Ministry of Home Affairs, Government of India shall, without any unnecessary delay and in any event not later than 10 days from today, constitute a high level committee (HLC) comprising of three members: A retired District Judge who has served in Delhi as Chairperson, and two other members one of whom shall be a senior official of the National Informatics Centre and or such other body of the Government of India having the necessary expertise to examine the CCTV system in Tihar Jail, and the third member being a senior official of the Delhi Police (not below the rank of a DCP).

(ii) The HLC will examine the functioning of the CCTV cameras in the Tihar Jail Complex, as well as the Rohini and Mandoli jails, in general and in particular the instance of as many as 64 of 83 CCTV cameras installed in Jail No.3 not being functional from 11th to 21st September 2017.

(iii) The HLC is free to consult experts and any person who may have useful suggestions regarding the aspect of security of jail complexes. Emphasis would be placed in having a state-of-the-art top quality security for the Tihar Jail complex comparable with the best international practices followed in high security prisons.

(iv) The HLC will suggest the protocol to be followed for disaster management and recovery in the event of a crisis. It must have the suggested measures tested by pilot runs/mock drills.

(v) The HLC will give specific suggestions on preserving the CCTV footages and procuring and maintaining state-of-the-art top quality servers and IT infrastructure required for the purpose. The composition of the technical back up team, to be an integral part of the Tihar Jail administration, should also be indicated by the HLC.

(vi) There cannot be any excuse of budgetary constraints in undertaking the above exercise given the nature of the task. The members of the HLC will be provided without delay appropriate work place, secretarial assistance, and shall be paid honorarium commensurate with the experience and competence. Ideally, one senior official of the MHA should be appointed as a point person of the HLC to interact with other Departments of the GNCTD, MHA and Tihar Jail administration.

(vii) The HLC will be extended full cooperation by the Tihar Jail Administration by granting it access to all relevant records as the HLC may consider necessary and visits to all parts of the three jail complexes. Likewise, the HLC will be extended full cooperation by the GNCTD and the MHA, Government of India and facilitate its interaction anyone else whom the HLC may wish to interact.

(vii) The Court expects the HLC to complete its task and submit a report not later than two months from the date of its constitution.

11. A certified copy of this order as well as earlier orders passed in these petitions, along with a complete set of the paper book including the status reports, medical reports and the latest Inquiry Report of the Superintendent Tihar Jail submitted under cover of the letter dated 13th October, 2017 shall be delivered to the Secretary, MHA, Government of India immediately by a Special Messenger of this Court.

12. A compliance report regarding the directions issued in para 10 (i) above be constitution of the committee be filed by the Secretary, MHA before the next date.

13. List on 30th November, 2017.

S.MURALIDHAR, J.

I.S.MEHTA, J.

NOVEMBER 01, 2017

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