

2025 LiveLaw (SC) 702

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.B. PARDIWALA; J., R. MAHADEVAN; J.

JULY 15, 2025

CIVIL APPEAL NO. 9487 OF 2025 [Arising out of SLP (C) No. 1785 OF 2023]

L. MURUGANANTHAM *versus* STATE OF TAMIL NADU & OTHERS

Code of Criminal Procedure, 1973 - Arrest - Persons with disabilities - Supreme Court affirmed that the arrest and incarceration of appellant, a physically challenged person, were illegal and did not comply with safeguards prescribed by the Court- arrest was carried out with ulterior motive of usurping his property. [Para 11.2]

Rights of Persons with Disabilities Act, 2016 (RPwD Act) - Prison conditions - Healthcare and accommodation - Supreme Court expressed deep concern over the plight of incarcerated individuals with disabilities and the systematic neglect in prison infrastructure - Absence of specific provisions like protein-rich food or specialized medical interventions might stem from institutional limitations rather than deliberate neglect, such shortcomings do not per se, amount to human rights violations attributable to jail authorities for the purpose of additional compensation in this case - Held that inaccessibility and denial of basic care amount to violations of fundamental rights under Articles 14, 21 of Constitution and breach sections 6, 25 and 38 of the RPwD Act, 2016 and Article 15 of UNCRPD. [Paras 21.1, 21.2]

Prison Reforms - Universal Accessibility - Data Collection – training - Supreme Court issued several directives for immediate and time-bound compliance - i. Prompt identification of prisoners with disabilities at the time of admission and provision of information in accessible formats; ii. Equipping prison premises with wheelchair-friendly spaces, accessible toilets, ramps and sensory-safe environments; iii. Designating and maintaining dedicated spaces for physiotherapy, psychotherapy and other services; iv. Conducting a State-level access audit of all prisons in Tamil Nadu within 6 months in accordance with the Harmonized Guidelines and Standards for Universal Accessibility in India (2021); v. Training and sensitizing prison medical officers and conducting regular awareness and sensitization in all prisons. [Paras 11, 35]

Right to Life - Article 21 - Prisoner's Rights - Supreme Court reiterated that lawful incarceration does not suspend the right to human dignity, punishment lies only in the restriction of liberty, not in the denial of humane treatment or reasonable accommodation - Failure to meet these obligations inflicts disproportionate suffering on disabled prisoners and betrays the Constitutional role of the State - The right to life under Article 21 of Constitution extends to all prisoners, including those with disabilities, but does not confer a right to demand personalized or luxurious food choices. [Para 21.2]

For Petitioner(s): Petitioner-in-person

For Respondent(s): Mr. Sabarish Subramanian, AOR Ms. Devyani Gupta, Adv. Mr. Vishnu Unnikrishnan, Adv. Ms. Saushriya Havelia, Adv. Ms. Tanvi Anand, Adv. Mr. Danish Saifi, Adv. Mr. Balaji. T, Adv. Mr. Bharat Deep Singh, Adv. Ms. M Karthiga, AOR Mr. Dipanshu Tomar, Adv.

J U D G M E N T

R. MAHADEVAN, J.

Leave granted.

2. Being aggrieved and dissatisfied with the final order dated 29.11.2022 passed by the High Court of Judicature at Madras¹ in Writ Petition No. 22431 of 2021, the appellant has preferred the present appeal. For the sake of clarity and specificity, the operative portion of the impugned order is reproduced below:

“37. The very casual manner in which the officer replied to our query, as to whether, he had read the judgment in Amesh Kumar v. State of Bihar and another shocks us. Such replies will reflect upon the entire Police force. We are constrained to point out that the compensation awarded by the State Human Rights Tribunal at Rs.1,00,000/is wholly insufficient and we enhance to Rs.5,00,000/-. We further direct that the enhanced compensation of Rs.4,00,000/- shall be borne by the State as we find that there has been several acts of commissions and omissions by the Police Department for which the 2nd respondent alone cannot be held liable. The other directions of the State Human Rights Commission relating to recovery of the penalty of Rs.1,00,000/from the 2nd respondent and the direction to take disciplinary action against the second respondent in WP No.22431 of 2021 would stand.

38. In fine WP No.22431 of 2021 will stand partly allowed to the extent indicated above and WP. No.22527 of 2021 will stand dismissed. We also award cost of Rs.25,000/- to the petitioner payable by the State.

39. Before parting with this ease, considering the material that has been placed before us, we feel it is necessary to issue directions to the State Government to effectively implement the provisions of the Rights of Persons with Disabilities Act, 2016. There will be a direction to the Additional Chief Secretary to Government of Tamil Nadu, Home Department to ensure that the District wise Sensitization programmes are conducted for Police Officers including Constables regarding the Rights of Persons with Disabilities. Such programmes shall be so designed that they throw enough light on the provisions of the enactment and the intendment of the legislation. Guidelines should also be issued to the Police Officers as to how they should handle such physically disabled persons. Similar guidelines are also to be issued to the Government Doctors who come across such physically disabled persons who run into conflict with law and brought before them for medical examination. We remind the State that a statutory duty has been cast upon it by the provisions of the Rights of Persons with Disabilities Act 2016, to ensure that such persons live with dignity.

...

42 We therefore direct the Director General of Police to take steps to have a periodical inspection of the CCTV Cameras in all Police Stations and ensure their functioning. In order to achieve this, the Director General of Police is required to make a District Level Officer in-charge of ensuring the functioning of CCTV cameras in certain number of Police Stations in the District and such Officers will be responsible for maintenance of the Cameras and if there is a failure on his part, he should be held accountable for such failure. This effort if taken, will go a long way in curing the malady of non-functioning CCTV Cameras. We hope that the above directions would be complied with in their letter and spirit in the interest of the Police Force itself. Consequently, the connected miscellaneous petition is closed.”

3. The appellant, who is an advocate, is a physically challenged person suffering from Becker Muscular Dystrophy, a progressively degenerative locomotive disability. He was assessed to have 70% disability in 2013, which increased to 80% in 2020. According to the appellant, he also suffers from autism and mental illness.

¹ Hereinafter referred to as “the High Court”

4. It is alleged by the appellant that due to a civil dispute, a false complaint was lodged against him and his aged mother by one Selvakumar, a henchman of the appellant's paternal uncle, Dhandapani, and the same was registered as FIR in Crime No. 108 of 2020 for offences under Sections 294(b), 323 and 506(ii) of the Indian Penal Code, 1860². Based on the said FIR, the appellant was arrested on 29.02.2020 by Respondent No. 2, who allegedly harassed and tortured him. He was thereafter, produced before the Judicial Magistrate, Udumalaipet, who remanded him to judicial custody.

5. The appellant further alleged that during his incarceration at the Central Prison, Coimbatore, Respondent No.3 failed to provide proper food, medical treatment, and care as required under the Rights of Persons with Disabilities Act, 2016³. The prison lacked infrastructure and facilities necessary for prisoners with disabilities, and the officials were allegedly insensitive and ill-informed regarding the rights of persons with disabilities. The appellant was released on bail on 10.03.2020.

6. Subsequently, the appellant filed a complaint in SHRC No. 2745 of 2020 before the State Human Rights Commission⁴, seeking compensation of Rs. 50,00,000/- for the deprivation of life and liberty during incarceration. He also sought directions for the payment of Rs.2 crores to the Disability Rights Public Fund under the RPwD Act, 2016 for violations of his human, fundamental, and statutory rights, and for action against the erring officials.

7. After hearing all parties, the SHRC, by order dated 27.08.2021, disposed of the complaint filed by the appellant, with the following recommendations:

"(i) The Government of Tamil Nadu shall pay a compensation of Rs.1,00,000/(Rupees One Lakh only) to the Complainant. Thiru L. Muruganantham residing at No.1/16, Muthu Nagar, Kotapulipalayam Road, Dharapuram, Tiruppur District, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs.1,00,000/- from the 1st Respondent. The complaint against the 2nd Respondent is dismissed.

(ii) This Commission also recommends to initiate disciplinary action against the 1st Respondent as per the Rules.

(iii) This Commission further recommends that the Government of Tamil Nadu to make all the prisons in the State accessible for persons with disabilities as per the Rights of Persons with Disabilities Act, 2016 and law declared by the Hon'ble Supreme Court of India in the case of Rajiv Raturi vs. Union of India and others on 15.12.2017 which affirmed that "Right to life under Article 21 has been held broad enough to incorporate the right to accessibility. All Government buildings providing any services to the public are to be made fully accessible by June, 2019 which has to be adhered to."

8. Aggrieved by the aforesaid order of the SHRC, the appellant filed W.P.No.22431 of 2021 before the High Court, seeking a Writ of Certiorarified Mandamus to call for the records pertaining to SHRC Case No. 2745 of 2020 dated 27.08 2021, and to quash the same insofar as it dismissed the complaint against Respondent No.3, failed to consider the complaint against Respondent No.1, and partially allowed the complaint against Respondent No.2. The appellant also sought a direction to Respondent Nos.1 to 3 to pay compensation of Rs.50,00,000/for the human rights violations committed against him, and for directions to Respondent No.1 to implement the RPwD Act, 2016, and the United

² For short, "IPC"

³ For short, "the RPwD Act, 2016"

⁴ For short, "the SHRC"

Nations Convention on the Rights of Persons with Disabilities, 2006⁵ in relation to the Police and Prison Departments in Tamil Nadu.

9. Respondent No.2, on the other hand, claiming that no human rights violation was committed against the appellant, and that the SHRC had erroneously held otherwise, filed W.P.No.22527 of 2021 seeking to quash the SHRC's order.

10. The High Court, by the common order impugned herein, partly allowed the writ petition filed by the appellant and dismissed the writ petition filed by Respondent No.2. Aggrieved by the same, the appellant has preferred the present appeal before this Court.

11. During the course of hearing, the appellant, appearing as a party-in-person, made the following submissions:

11.1. That the appellant and his aged mother were falsely implicated in a criminal case lodged at the behest of his paternal uncle through one Selvakumar. Respondent No.2, acting in collusion with the said uncle, arrested the appellant illegally and obtained remand on the basis of false and misleading representations. The ulterior motive behind this was to coerce the appellant into transferring his valuable properties to his uncle. Though a charge sheet was filed, it was ultimately quashed by the High Court.

11.2. That the appellant suffers from Becker Muscular Dystrophy, Autism Spectrum Disorder, and associated psychological conditions. During incarceration, he was denied essential support such as physiotherapy, psychotherapy, protein-rich nutrition (e.g., eggs, chicken, nuts), accessible sanitation facilities, ramps, a low sensory environment for rest, and warm water for bathing. This lack of accommodation caused further deterioration of his physical and mental health, as evidenced by undisputed medical records showing his disability progressed from 70% in 2013 to 80% in 2020.

11.3. That the appellant repeatedly informed prison and medical authorities of his health condition, yet no physiotherapy or psychotherapy was provided. Protein-rich foods were denied, and milk was supplied on only 7 out of 10 days. The prison lacked accessible toilets and ramps, including in the dispensary. Loud announcements and continuous lighting aggravated his sensory distress. The hostile environment worsened his Avoidant / Restrictive Food Intake Disorder (ARFID), a condition recognized under DSM-5, leading to further mental and physical deterioration.

11.4. That both the SHRC and the High Court concurrently found that Respondent No.2, despite being aware of the appellant's disability, acted in a callous and inhumane manner with ulterior motives. The High Court further observed that during incarceration, the appellant was denied proper medical care, food, and basic amenities, amounting to a violation of his statutory rights. Such deprivation, according to the appellant, constitutes a human rights violation under Section 2(d) of the Protection of Human Rights Act, 1993, the RPwD Act, 2016, and Articles 14 and 21 of the Constitution of India. However, the SHRC awarded a meagre sum of Rs.1,00,000/- towards compensation, which was slightly enhanced to Rs.5,00,000/by the High Court.

11.5. That compensation has been granted only for the human rights violations committed by the police, whereas no compensation has been granted for the progressive deterioration of the appellant's disability caused by inhumane prison conditions. Such deterioration also constitutes a grave violation of his fundamental and human rights.

⁵ For short, "the UNCRPD"

11.6. That as a result of the violations suffered, the appellant now experiences sleep deprivation, chronic pain, ulceration, and severe psychological trauma requiring long-term medication with significant side effects. His deteriorated health has also diminished his eligibility for advanced gene therapy – costing over Rs.16 crores – which should be considered while assessing compensation.

11.7. That Prisons are ill-equipped to provide reasonable accommodations to persons with disabilities. Despite statutory mandates under Sections 39 and 47(1) (a) of the RPwD Act, 2016, no sensitization or awareness programmes have been conducted for prison staff. RTI responses reveal that prison authorities maintain no data on accessibility, accommodations, or compliance. Further, there is a failure to publish disability-related statistics, as mandated by Article 31 of the UNCRPD.

11.8. That the existing Prison Manual is non-compliant with the RPwD Act, 2016, and fails to address the needs of persons with varying disabilities. In *Shri Rama Murthy v. State of Karnataka*⁶, this Court noted that the outdated Prison Act, 1894, must be thoroughly overhauled. The appellant submits that systemic disregard for disability rights has led to irreversible harm to his health and dignity, and endangers similarly placed prisoners.

11.9. The appellant further relies on the following judicial precedents:

(i) *Vikash Kumar v. Union Public Service Commission*⁷, where this Court held that Section 3 of the RPwD Act, 2016, is a statutory embodiment of constitutional guarantees under Articles 14, 19, and 21, and that denial of reasonable accommodation constitutes discrimination;

(ii) *Jeeja Ghosh v. Union of India*⁸, which emphasized adopting a human rights based approach toward persons with disabilities;

(iii) *Re: Inhuman Conditions in 1382 Prisons*⁹, wherein this Court reiterated that the right to life under Article 21 includes the right to live with dignity, which applies equally to prisoners.

11.10. In light of the above facts, documentary evidence, and legal principles, the appellant prays for compensation and systemic reforms. The directions sought by the appellant are as follows:

(a) To direct the jail authorities to pay compensation for the violation of the appellant's rights during his incarceration;

(b) To ensure provision of physiotherapy, psychotherapy, and all necessary lifesaving medical treatments for prisoners with disabilities;

(c) To mandate the supply of a proper and nutritious diet to prisoners with disabilities, tailored to their individual health needs;

(d) To direct an access audit of all prisons in Tamil Nadu, in accordance with the Harmonized Guidelines and Standards for Universal Accessibility in India – 2021;

⁶ (1997) 2 SCC 642

⁷ (2021) 12 SCR 311

⁸ (2016) 4 SCR 638

⁹ (2016) 1 SCR 1090

- (e) To mandate full accessibility of prisons in Tamil Nadu as required under Section 45 read with Section 40 of the RPwD Act, 2016, Rule 15 of the Rights of Persons with Disabilities Rules, 2017, and the above Guidelines;
- (f) To ensure provision of reasonable accommodations under Section 3(5) read with Section 2(h) of the RPwD Act, 2016, and the principles laid down in *Vikash Kumar (supra)*;
- (g) To conduct sensitization and training programs for prison authorities, including medical staff, regarding the rights and needs of prisoners with disabilities, as mandated under Sections 39 and 47(1)(a) of the RPwD Act, 2016;
- (h) To initiate review and amendment of the Prison Manual under Section 80 of the RPwD Act, 2016, in order to address and safeguard the rights of prisoners with disabilities;
- (i) To ensure compliance with Article 31 of the UNCPRD by maintaining and disseminating disaggregating statistical data regarding accessibility and accommodations for prisoners with disabilities on official websites, thereby ensuring transparency and accountability.

12. Denying the submissions made by the appellant, the learned counsel for the respondents submitted as follows:

12.1. In connection with Crime No. 108/2020 registered at Dharapuram Police Station for offences under Sections 294 (b), 323 and 506(ii) IPC, the appellant was remanded by the Judicial Magistrate on 29.02.2020 and admitted to Central Prison, Coimbatore on the same day. He was released on bail on 10.03.2020. Notably, from the date of admission until his release, the appellant remained an inpatient in the Prison Hospital throughout.

12.2. Subsequent to his release, the appellant lodged a complaint before the SHRC which was registered as Case No. 2475/2020/C2. In this complaint, he alleged custodial torture by Respondent No.2 during arrest and failure on the part of Respondent No.3 (prison authorities) to provide basic facilities and adequate medical treatment, taking into account his physical disability.

12.3. Upon consideration of the matter, the SHRC awarded compensation of Rs.1,00,000/- and directed disciplinary action against the erring police officer (Respondent No.2). However, it dismissed the complaint against Respondent No.3. Aggrieved by the limited relief, the appellant filed Writ Petition No. 22431/21 before the High Court seeking enhanced compensation of Rs.50,00,000/- and action against the prison authorities.

12.4. By its order dated 29.11.2022, the High Court partly allowed the writ petition, observing that while the arrest and initial treatment of the appellant could amount to a human rights violation, there was no evidence of any violation by the jail authorities. The relevant portion of the order is extracted below:

“34...It is seen from the jail records that had been produced, the petitioner was always in the jail dispensary and certain special amenities were provided to him as a physically disabled person. Special diet which includes milk was supplied to him. Mere non provision of certain amenities which would amount to a statutory violation may not strictly amount of Human Rights violation. While arrest and incarceration of the petitioner could be said to be a Human Rights Violation, the non-provision of certain amenities or treatment during a short period of incarceration, in our opinion, will not amount to a serious Human Rights violation.”

12.5. Nonetheless, the High Court enhanced the compensation awarded by the SHRC from Rs.1,00,000/- to Rs.5,00,000/-, of which Rs.4,00,000/- was to be paid by the State and Rs.1,00,000/- recovered from Respondent No.2. Additionally, Rs.25,000/- was

awarded as costs to the appellant, payable by the State. In compliance, the Government issued G.O.(D) No.270, Home (Police-HR) Department Dated 07.03.2023, sanctioning Rs.5,25,000/- towards payment of compensation. Thus, according to the respondents, the order of the High court has already been complied with.

12.6. It is relevant to note here that the appellant was continuously housed as an inpatient in the Prison Hospital from 29.02.2020 to 10.03.2020. This, according to the respondents, indicates that the prison authorities took necessary steps to address the appellant's specific needs, including providing a cot with a mattress, a special medical diet (milk and egg), psychiatric counselling, and assistance from medical staff and co-prisoners for daily routines.

12.7. As per the medical history recorded on 01.03.2020 by the Prison Doctor, the appellant was a known case of Becker's Muscular dystrophy since the age of 27 and had a history of psychiatric illness, for which he was on anti-depressants. However, no supporting medical records were produced by the appellant or his family members at the time of admission. Based on clinical examination, the Medical Officer recommended inpatient care, continued physiotherapy, psychiatric counselling, and a special medical diet.

12.8. In accordance with Rules 196, 197, 198(iii), and 845 of the Tamil Nadu Prison Rules, 1983, every new prisoner is examined by a Medical Officer and may be placed under quarantine or admitted to the Prison Hospital, if required. These procedures were duly followed in the appellant's case. Furthermore, Rule 405 of the Tamil Nadu Prison Manual Volume II provides that the medical diet of hospitalized prisoners is under the full control of the Medical Officer. Accordingly, the appellant was provided with appropriate medical attention and dietary support during his period of incarceration.

12.9. The respondents submitted that Central and Special Prisons in Tamil Nadu are equipped with wheelchairs, disabled-friendly toilets, and trained personnel to attend to the needs of elderly, sick, and disabled inmates. All such facilities were available to the appellant. The Medical Officer recorded all relevant details in the prescribed proforma as per the guidelines issued by the National Human Rights Commission.

12.10. Ultimately, it was submitted that the prison authorities extended all possible medical care and basic amenities to the appellant, and hence, the claim of human rights violations during his incarceration is unfounded.

12.11. Therefore, the learned counsel submitted that the appeal is devoid of merit and is liable to be dismissed.

13. In reply, the appellant submitted that the prison records and the counter affidavit filed by the respondents reveal inconsistencies and false claims regarding the provision of treatment and accommodations. For instance, while certain records assert that eggs were supplied, the prison food logs indicate otherwise. Similarly, psychological counselling was only recommended, but never actually administered, contrary to the claims made by the respondents. Thus, according to the appellant, the respondents failed to comply with the provisions of the RPwD Act, 2016 and other applicable laws.

14. We have considered the submissions made by the appellant as party-in-person and the learned counsel appearing for the respondents and carefully perused the materials available on record.

15. The two broad issues that arise for our consideration are as follows:

(A) Whether the order of the High Court enhancing compensation to Rs.5,00,000/for the alleged violations committed against the appellant, while dismissing the complaint against Respondent No.3, and partly allowing the complaint against Respondent No.2, calls for interference by this Court; and

(B) Whether adequate and appropriate facilities are being made available to prisoners with disabilities during incarceration in the prisons of Tamil Nadu, in compliance with the provisions of the RPwD Act, 2016 and UNCPRD.

Order of the High Court

16. It is not in dispute that the appellant was falsely implicated in a criminal case at the behest of his paternal uncle, resulting in his illegal arrest and subsequent harassment by Respondent No.2. Though an FIR was registered and a charge sheet was filed pursuant thereto, the same was eventually quashed by the High Court. However, by that time, the appellant had already undergone incarceration from 29.02.2020 to 10.03.2020.

17. According to the appellant, during his incarceration, the prison authorities failed to provide him with appropriate food, medical care, and other necessary support considering his physical disability, which led to a deterioration in his health. Consequently, he lodged a complaint before the SHRC seeking compensation and initiation of actions against the erring officials for the alleged violations committed against him. The respondents, however, contended that the appellant was housed in the prison hospital throughout his custody, and was provided with food, treatment, and care suited to his needs, and therefore, no human rights violation could be attributable to the prison authorities.

18. Upon a detailed examination of the records, the SHRC concluded that the appellant's arrest was in clear violation of the guidelines laid down by this Court in *Arnesh Kumar v. State of Bihar*¹⁰. However, it held that during the period of incarceration, the appellant had been admitted to the prison hospital and was provided necessary medical treatment. Consequently, the SHRC found no specific human rights violation attributable to the prison authorities during the appellant's custody. Accordingly, in the complaint filed by the appellant, the SHRC recommended the payment of compensation of Rs. 1,00,000/- to the appellant, to be paid by Respondent No.1 and recoverable from Respondent No.2. It also recommended initiation of departmental disciplinary proceedings against Respondent No.2.

19. A similar view was taken by the High Court in the writ petition filed by the appellant. However, pointing out that the compensation awarded by the SHRC was inadequate given the nature and circumstances of the case, the High Court enhanced the compensation to Rs.5,00,000/-, directing that Rs.4,00,000/- be paid by the Government. The other directions of the SHRC including the imposition of penalty of Rs.1,00,000/- on Respondent No.2 and the recommendation for disciplinary action against him, were affirmed by the High Court. Additionally, the High Court awarded costs of Rs.25,000/- to the appellant payable by the State. At this juncture, it is relevant to note that the respondents have complied with the directions of the High Court and have paid the entire amount of Rs.5,25,000/- to the appellant.

20. Both the SHRC and the High Court unequivocally held that the FIR, arrest, and incarceration of the appellant were carried out at the behest of his paternal uncle with the ulterior motive of usurping his property. The arrest was illegal and did not comply with the safeguards prescribed by this Court. Importantly, the authorities failed to consider the

¹⁰ (2014) 8 SCC 273

appellant's disability status. These findings are supported by documentary evidence, and we find no reason to depart from them.

21. The next issue to be determined is whether the compensation of Rs.1,00,000/- awarded by the SHRC, and later enhanced to Rs.5,00,000/- by the High Court, merits further enhancement by this Court.

21.1. While it is evident that the appellant did not receive certain medical and dietary facilities appropriate to his condition during incarceration, the records indicate that he remained in the prison hospital throughout and was provided with some special amenities recognising his disability. The absence of specific provisions, such as protein-rich food or specialised medical interventions appears to stem from institutional limitations within the prison system rather than from any deliberate neglect or malice on the part of the prison authorities. Hence, these shortcomings do not amount, *per se*, to a violation of human rights attributable to the jail authorities.

21.2. The appellant specifically contended that he was not provided with adequate protein-rich food, such as eggs, chicken and nuts, on a daily basis. While persons with disabilities constitute a particularly vulnerable class and are entitled to reasonable accommodations under domestic law and international conventions, the mere non-supply of preferred or costly food items cannot *ipso facto* be treated as a violation of fundamental rights. The right to life under Article 21 of the Constitution undoubtedly extends to all prisoners, including those with disabilities. However, this does not confer a right to demand personalised or luxurious food choices. The State's obligation is to ensure that every inmate, including those with disabilities, receives adequate, nutritious, and medically appropriate food, subject to medical certification.

21.3. Prisons are correctional institutions – not extensions of civil society's comforts. The non-supply of non-essential or indulgent items does not amount to a constitutional or human rights violation unless it results in demonstrable harm to health or dignity. Considering the nature of the appellant's disability (assessed at 80%), the progressive deterioration of his health during custody, and the ongoing treatment, he requires, the High Court was justified in enhancing the compensation from Rs.1,00,000/- to Rs.5,00,000/-. We find this amount to be fair, just, and reasonable in the facts and circumstances of the case, and therefore, see no reason to interfere with the same.

22. As already indicated, the deficiencies in prison facilities may not be directly attributable to the respondent authorities in the present case. Accordingly, they cannot be held liable for the same. The direction issued by the High Court for initiation of departmental proceedings against Respondent No.2, as well as the dismissal of the complaint against Respondent No.3 (the prison authorities), appears to be well-reasoned and based on a careful appreciation of the facts and evidence on record. In contrast, no material was produced by the appellant to establish wilful negligence or deliberate omission on the part of the prison authorities to warrant a finding of human rights violation. Therefore, we find no justification to disturb these conclusions reached by the High Court.

Adequate and Appropriate facilities for prisoners with disabilities

23. Prisons are often regarded as the “tail-end” of the criminal justice system – historically designed for rigid discipline, harsh conditions, and minimal liberties. While modern penological principles advocate rehabilitation over retribution, the current prison infrastructure and operational systems in India remain grossly inadequate – especially when it comes to meeting the needs of prisoners with disabilities.

24. In the present case, though the deficiencies in prison facilities may not be directly attributable to the respondent authorities, they highlight the urgent need for prison reforms, particularly the implementation of disability-sensitive infrastructure and protocols. This Court is conscious of the systemic neglect in prison infrastructure, especially in relation to the needs of prisoners with disabilities. In *Rama Murthy (supra)*, this Court referred to the Mulla Committee Report and emphasised the dire conditions in Indian prisons, including inadequate hygiene, insufficient medical care, and lack of accountability. The relevant paragraphs of the said decision are usefully extracted below:

“35. The Mulla Committee has dealt with this aspect in Chapter 6 and 7 of its Report, a perusal of which shows the pathetic position in which most of the jails are placed insofar as hygienic conditions are concerned. Most of them also lack proper facilities for treatment of prisoners. The recommendations of the Committee in this regard are to be found in Chapter 29. We have nothing useful to add except pointing out that society has an obligation towards prisoners' health for two reasons. First, the prisoners do not enjoy the access to medical expertise that free citizens have. Their incarceration places limitations on such access; no physician of choice, no second opinions, and few if any specialists. Secondly, because of the conditions of their incarceration, inmates are exposed to more health hazards than free citizens. Prisoners therefore, suffer from a double handicap.

36. In 'American Prison System' (supra) there is a discussion at pages 411-13 as to whether a prisoner can seek any relief from the Court because of neglect of medical treatment on the ground of violation of their constitutional right. Policy makers may bear this also in mind while deciding about the recommendations of the Mulla Committee Report, which they would so do within six months from today. Insubstantial food and inadequate clothing.

37. There is not much to doubt that the rules contained in concerned Jail Manual dealing with food and clothing etc. to be given to prisoners are not fully complied with always. All that can usefully be said on this aspect is the persons who are entitled to inspect jails should do so after giving shortest notice so that the reality becomes known on inspection. The system of complaint box introduced in Tihar Jail during some period needs to be adopted in other jails also. The complaint received must be fairly inquired and appropriate actions against the delinquent must be taken.

On top of all, prisoners must receive full assurance that whoever would lodge a complaint would not suffer any evil consequence for lodging the same.”

Despite clear directions, no comprehensive legal framework has yet been developed to secure enforceable rights for disabled prisoners facing systemic neglect.

25. This Court expresses deep concern over the plight of incarcerated individuals with disabilities, who are among the most marginalized and vulnerable groups, within the justice system. The social and structural barriers they face in society are only magnified within the prison environment. Unlike the minimal safeguards afforded to women prisoners, there is currently no specific legal or policy framework that guarantees dignity, accessibility, and protection for persons with disabilities or for members of the transgender community in prisons. From the stage of arrest through trial and incarceration, persons with disabilities face systemic disadvantage due to the lack of training and sensitivity among police and prison personnel.

26. Most prison facilities are structurally inaccessible to individuals with mobility, sensory, or cognitive impairments. Institutional routines and infrastructure are not designed to accommodate diverse needs, making it difficult – or at times impossible – for such prisoners to use toilets, dining areas, libraries, or health clinics. Additionally, due to the absence of trained caregivers or appropriate custodial policies, persons with disabilities are often denied help with essential daily activities such as bathing, dressing,

or eating. This neglect results in indignity, mental distress, and, at times, serious physical harm.

27. Such inaccessibility and denial of basic care are not mere administrative lapses; they amount to violations of fundamental rights enshrined under Articles 14 and 21 of the Constitution of India. They also breach provisions of the RPwD Act, 2016 – specifically Sections 6, 25, and 38 – which mandate the State to ensure healthcare and non-discriminatory treatment for persons with disabilities, including those in custody. Furthermore, under Article 15 of the UNCPRD, to which India is a signatory, any cruel, inhuman, or degrading treatment of disabled persons in detention is strictly prohibited.

28. Persons with disabilities must be provided healthcare equivalent to that available in the general community. This includes access to physiotherapy, speech therapy, psychiatric care, and assistive devices, such as wheelchairs, hearing aids, or crutches. Prison authorities are under a duty to coordinate with public healthcare systems to ensure uninterrupted care. Logistical or financial limitations cannot be cited to justify a withdrawal of this obligation.

29. International legal standards reaffirm these responsibilities. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) prescribe prompt, adequate healthcare and specific attention to the needs of prisoners with disabilities. Under Rule 2, the principle of non-discrimination requires prison systems to proactively accommodate the unique vulnerabilities of such individuals. Rule 5(2) mandates that reasonable accommodations must be made so that persons with disabilities have full and effective access to prison life on an equal basis with others.

30. Lawful incarceration does not suspend the right to human dignity. The punishment lies only in the restriction of liberty – not in the denial of humane treatment or reasonable accommodations. Failure to meet these obligations inflicts disproportionate suffering on disabled prisoners and betrays the constitutional role of the State as a custodian – not a tormentor – of those it detains.

31. Despite clear constitutional and statutory mandates, the lack of disaggregated data on disability continues to hinder targeted policy intervention. In response to a Parliamentary query in 2016, the Government acknowledged that it does not maintain any data regarding disabled prisoners. The National Crime Records Bureau (NCRB) – despite providing detailed information on caste, gender, and religion – fails to record disability status. Its 2022 report, for instance, only references 137 pending cases under the Mental Health Act, offering no insight into the wider population of prisoners with disabilities.

32. This data gap has far-reaching implications throughout the criminal justice process. The unavailability of interpreters, accessible communication formats, or assistive technologies during investigation and trial hinders the right to a fair hearing. This results in miscommunication, delays, and the denial of justice. These systemic omissions constitute indirect discrimination and disproportionately burden persons with disabilities – entrenching their social exclusion.

33. Most State prison manuals remain outdated and uninformed by developments in disability law and rights-based discourse. They frequently conflate sensory or physical disabilities with mental illness or cognitive decline, thereby eroding the distinct legal right to reasonable accommodation. This conflation promotes harmful stereotypes and obstructs disabled inmates from claiming their lawful entitlements.

33.1. At this juncture, we also note with approval the judgment in *People's Watch v. The Home Secretary, Home Department, Prison Secretariat and others*¹¹ which incidentally also arose from the Madras High Court. The said judgment elaborates on the urgent need for prison reforms and outlines concrete modalities for improving the quality of life of inmates. The following paragraphs from the judgment are extracted hereunder for reference. The directives issued therein are hereby re-emphasized, as their effective implementation would significantly advance the objective of comprehensive prison reforms, aligned with the constitutional vision of a welfare state that is attentive to the principles of inclusivity, equality, and non-discrimination.

"15. The Model Prison Manual, 2016 came into existence, after multiple judicial interventions. The Hon'ble Supreme Court has repeatedly recommended an overhaul of prison administration by suggesting reforms in treatment of prisoners and management of prisons. The dehumanized existence of prisoners was reprimanded by Justice Krishna Iyer in Sunil Batra v. Delhi Administration [1980 AIR 1579] and he called for an overhaul of Prison Manuals in compliance with constitutional ideals and human rights. He further emphasised on the need for an independent oversight mechanism for operationalizing prisoners' rights and safeguards. Subsequently, after the direction of the Hon'ble Supreme Court to examine the framing of new All India Jail Manual in Rama Murthy v. State of Karnataka, [(1997) 2 SCC 642], the government constituted a committee to draft a model prison manual in accordance with the rights jurisprudence and constitutional ideals. The Committee was entrusted with the responsibility to compare the state prison manuals, identify the gaps in provisions related to administration and management of prisons and recommend best practices. It examined the provisions relating to internal management of prisons and treatment of prisoners and devised a framework to ensure that the prisoners are treated in accordance with the recommendations made in the judgments of the Hon'ble Supreme Court, All India Committee on Jail Reforms (1980-1983) and international instruments. Thus, the Model Prison Manual came into being in the year 2003 after national-level deliberations and development of a consensus. However, only after the nudge from the Hon'ble Supreme Court in Inhuman Conditions in 1382 Prisons, In re, [(2017) 10 SCC 658], the Ministry of Home Affairs approved the Manual after 12 years in 2016. The Model Prison Manual and the system that it envisages, has to be understood as an outcome of the repeated clarion calls and demands to safeguard prisoners' rights and prison reforms.

16. The Model Prison Manual, 2016 provides for a system of board of visitors. The visitation system is a pragmatic shift from isolation of prisoners under custody from the outside world. Community interaction is a necessary postulate in transforming prisons as correctional institutions. The board of visitors, which directly interacts with the prisoners, is the driver of such transformation by acting as a connecting thread between the authorities and prisoners. They are entrusted with the duty to enquire into the prisoners' grievances, develop suggestions for its redressal and forward the suggestions to the concerned authorities. We may refer to the following observation of the All India Committee for Jail Reforms (Mulla Committee), while highlighting the importance of Board of Visitors:

"For long, the system of Board of Visitors in prison administration has been in place. In a way, the system indicates corrections being a concern of one in all; and correctional institutions do not have to be insular. These need to have a measure of interaction with other sectors of criminal justice system and a substantive linkage with community. The modality of Board of Visitors subserves these and similar purposes. Should the Board function effectively, it will greatly help jail inmates in redressing their grievances and in putting them on the path of reformation and rehabilitation."

17.(i) There is a catena of decisions dealing with prisoners' rights. We may now refer exclusively to the observations of the Hon'ble Supreme Court in relation to the visitation system to understand

¹¹ (2023) 2 MLJ 478 : CDJ 2023 MHC 025

the nature of responsibility of the prison visitors. In *Sunil Batra v. Delhi Administration* [AIR 1980 Supreme Court 1579], it was held by the Hon'ble Supreme Court as follows:

"59. The Prisons Act and Rules need revision if a constitutionally and culturally congruous code is to be fashioned. The model jail manual, we are unhappy to say and concur in this view with the learned Solicitor General, is far from a model and is, perhaps, a product of prison officials insufficiently instructed in the imperatives of the Constitution and unawakened to the new hues of human rights. We accept, for the nonce, the suggestion of the Solicitor General that within the existing statutory framework the requirements of constitutionalism may be read. He heavily relies on the need for a judicial agency whose presence, direct or by delegate, within the prison walls will deal with grievances. For this purpose, he relies on the Board of Visitors, their powers and duties, as a functional substitute for a Prison Ombudsman. A controllerate is the desideratum for in situ reception and redressal of grievances.

79. What we have stated and directed constitute the mandatory part of the judgment and shall be complied with by the State. But implicit in the discussion and conclusions are certain directives for which we do not fix any specific time-limit except to indicate the urgency of their implementation. We may spell out four such quasi-mandates.

1. The State shall take early steps to prepare in Hindi, a prisoner's handbook and circulate copies to bring legal awareness home to the inmates. Periodical jail bulletins stating how improvements and habilitative programmes are brought into the prison may create a fellowship which will ease tensions. A prisoners' wallpaper, which will freely ventilate grievances will also reduce stress. All these are implementary of Section 61 of the Prisons Act.

2. The State shall take steps to keep up to the Standard Minimum Rules for Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies. In this latter aspect, the observations we have made of holistic development of personality shall be kept in view.

3. The Prisons Act needs rehabilitation and the Prison Manual total overhaul, even the Model Manual being out of focus with healing goals. A correctional-cum-orientation course is necessitous for the prison staff inculcating the constitutional values, therapeutic approaches and tension-free management.

4. The prisoners' rights shall be protected by the court by its writ jurisdiction plus contempt power. To make this jurisdiction viable, free legal services to the prisoner programmes shall be promoted by professional organisations recognised by the court such as for example. Free Legal Aid (Supreme Court) Society. The District Bar shall, we recommend, keep a cell for prisoner relief."

(ii) The Hon'ble Supreme Court in *Sanjay Suri v. Delhi Administration* [1988 Supp SCC 160] emphasized the need for diversity in the board of visitors. It recommended that members from different cross-sections of life be included in the visitors' board viz., social activists, women social workers, people involved in news media, retired public servants from judiciary and executive. The relevant passage of the said decision is extracted below:

"8. The Visitors' Board should consist of cross-sections to society; people with good background, social activists, people connected with the news media, lady social workers, jurists, retired public officers from the judiciary as also the executive. The Sessions Judge should be given an acknowledged position as a visitor and his visits should not be routine ones. Full care should be taken by him to have a real picture of the defects in the administration qua to the resident prisoners and undertrials."

(iii) In *Rama Murthy v. State of Karnataka* [(1997) 2 SCC 642], the Hon'ble Supreme Court noted that to know the real picture of prisoners and prison administration, the jail visits must be done after giving the shortest notice. For better appreciation, the relevant passage of the said decision is reproduced below:

"33. What we would rather state is that if what is being done to prisoners in the above regard is to enforce prison discipline mentioned in various jail manuals, there exists a strong need for a new All India Jail Manual to serve as a model for the country, which manual would take note of what has been said about various punishments by this Court in its aforesaid decisions. Not only this, the century old Indian Prison Act, 1894, needs a thorough look and is required to be replaced by a new enactment which would take care of the thinking of Independent India and of our constitutional mores and mandate. The National Human Rights Commission has also felt that need for such exercise, mention about which has been made in paras 4.18 and 4.21 of the aforesaid Report.

Conclusion

51. We have travelled a long path. Before we end our journey, it would be useful to recapitulate the directions we have given on the way to various authorities. These are:

(1) To take appropriate decision on the recommendations of the Law Commission of India made in its 78th Report on the subject of "Congestion of undertrial prisoners in jail" as contained in Chapter 9

(para 22).

(2) To apply mind to the suggestions of the Mulla Committee as contained in Chapter 20 of Vol. I of its Report relating to streamlining the remission system and premature release (parole), and then to do the needful

(para 25).

(3) To consider the question of entrusting the duty of producing UTPs on remand dates to the prison staff

(para 29).

(4) To deliberate about enacting of new Prison Act to replace the century-old Indian Prison Act, 1894 (para 33). We understand that the National Human Rights Commission has prepared an outline of an all-India statute, which may replace the old Act; and some discussions at a national level conference also took place in 1995. We are of the view that all the States must try to amend their own enactments, if any, in harmony with the all-India thinking in this regard.

(5) To examine the question of framing of a model new All India Jail Manual as indicated in para 33.

(6) To reflect on the recommendations of the Mulla Committee made in Chapter 29 on the subject of giving proper medical facilities and maintaining appropriate hygienic conditions and to take needed steps

(paras 37 and 38).

(7) To ponder about the need of complaint box in all the jails

(para 39).

(8) To think about introduction of liberalisation of communication facilities (para 42). (9) To take needful steps for streamlining of jail visits as indicated in para 44.

(10) To ruminate on the question of introduction of open-air prisons at least in the District Headquarters of the country (para 50)."

(iv) In *D.K. Basu v. State of W.B.*, [(2015) 8 SCC 744], the amicus curiae suggested the Hon'ble Supreme Court to deal with the appointment of non-official visitors to make surprise visits to prisons to check human rights violations. It was raised to enable proper implementation of the Protection of Human Rights Act, 1993. After noting that there is no harm in appointing non-official visitors, the Hon'ble Supreme Court directed the state government to consider their appointment with a caveat that the non-official visitors should not interfere with the ongoing investigations. The relevant paragraphs are quoted below for ready reference:

"31. There are, apart from the above, few other recommendations made by the Amicus like installation of CCTV cameras in all police stations and prisons in a phased manner, and appointment of non-official visitors to prisons and police stations for making random and surprise inspections. Initiation of human proceedings under Sections 302/304 IPC in each case where the enquiry establishes culpability in custodial death and framing of uniform definition of custodial death and mandatory deployment of at least two women constables in each district are also recommended by the Amicus.

...

35. That leaves us with the appointment of non-official visitors to prisons and police stations for making random and surprise inspection to check violation of human rights. The Amicus points out that there are provisions in the Prison Manual providing for appointment of non-official visitors to prisons in the State. These appointments are made on the recommendations of the Magistrate of the District in which the prison is situated. He urged that the provisions being salutary ought to be invoked by the Governments concerned and non-official visitors to prisons in police stations nominated including independent persons like journalist. There is, in our opinion, no real harm or danger in appointment of non-official visitors to prisons and police stations provided the visitors who are so appointed do not interfere with the ongoing investigations, if any. All that we need say is that the State Governments may take appropriate action in this regard keeping in view the provisions of the Prison Manuals and the Police Acts and the Rules applicable to each State.

38. To sum up

38.7. The State Governments shall consider appointment of non-official visitors to prisons and police stations in terms of the relevant provisions of the Act wherever they exist in the Jail Manuals or the relevant Rules and Regulations."

(v) In *Inhuman Conditions in 1382 Prisons*, In re, [(2017) 10 SCC 658], the Hon'ble Supreme Court opined that participation of members of the society as non-official visitors in the Board of Visitors was of 'considerable importance' and directed the state governments to constitute an appropriate board of visitors in terms of Chapter XXIV of the Model Prison Manual, 2016 by 30.11.2017. The relevant passage can be usefully extracted below:

"58. We are of the view that on the facts and in the circumstances before us, the suggestions put forward by the learned Amicus and the learned counsel appearing for the National Forum deserve acceptance and, therefore, we issue the following directions:

58.1. The Secretary General of this Court will transmit a copy of this decision to the Registrar General of every High Court within one week with a request to the Registrar General to place it before the Chief Justice of the High Court. We request the Chief Justice of the High Court to register a suo motu public interest petition with a view to identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by the NCRB during the period between 2012 and 2015 and even thereafter, and award suitable compensation, unless adequate compensation has already been awarded.

58.2. The Union of India through the Ministry of Home Affairs will ensure circulation within one month and in any event by 31st October, 2017 of (i) the Model Prison Manual, (ii) the monograph prepared by the NHRC entitled "Suicide in Prison - prevention strategy and implication from human rights and legal points of view", (iii) the communications sent by the NHRC referred to above, (iv) the compendium of advisories issued by the Ministry of Home Affairs to the State Governments, (v) the Nelson Mandela Rules and (vi) the Guidelines on Investigating Deaths in Custody issued by the International Committee of the Red Cross to the Director General or Inspector General of Police (as the case may be) in charge of prisons in every State and Union Territory. All efforts should be made, as suggested by the NHRC and others, to reduce and possibly eliminate unnatural deaths in prisons and to document each and every death in prisons – both natural and unnatural.

58.3. The Union of India through the Ministry of Home Affairs will direct the NCRB to explain and clarify the distinction between unnatural and natural deaths in prisons as indicated on the website of the NCRB and in its Annual Reports and also explain the sub-categorization 'others' within the category of unnatural deaths. The NCRB should also be required to sub- categorize natural deaths. The subcategorization and clarification should be complied with by 31st October, 2017.

58.4. The State Governments should, in conjunction with the State Legal Services Authority (SLSA), the National and State Police Academy and the Bureau of Police Research and Development conduct training and sensitization programmes for senior police officials of all prisons on their functions, duties and responsibilities as also the rights and duties of prisoners. A copy of this order be sent by the Registry of this Court to the Member-Secretary of each SLSA to follow-up and ensure compliance.

58.5. The necessity of having counselors and support persons in prisons cannot be over-emphasized. Their services can be utilized to counsel and advice prisoners who might be facing some crisis situation or might have some violent or suicidal tendencies. The State Governments are directed to appoint counselors and support persons for counselling prisoners, particularly first-time offenders. In this regard, the services of recognized NGOs can be taken and encouraged.

58.6. While visits to prison by the family of a prisoner should be encouraged, it would be worthwhile to consider extending the time or frequency of meetings and also explore the possibility of using phones and video conferencing for communications not only between a prisoner and family members of that prisoner, but also between a prisoner and the lawyer, whether appointed through the State Legal Services Authority or otherwise.

58.7. The State Legal Services Authorities (SLSAs) should urgently conduct a study on the lines conducted by the Bihar State Legal Services Authority in Bihar and the Commonwealth Human Rights Initiative in Rajasthan in respect of the overall conditions in prisons in the State and the facilities available. The study should also include a performance audit of the prisons, as has been done by the CAG. The SLSAs should also assess the effect and impact of various schemes framed by NALSA relating to prisoners. We request the Chief Justice of every High Court, in the capacity of Patron- in-Chief of the State Legal Services Authority, to take up this initiative and, if necessary, set up a Committee headed preferably by the Executive Chairperson of the State Legal Services Authority to implement the directions given above.

58.8. Providing medical assistance and facilities to inmates in prisons needs no reaffirmation. The right to health is undoubtedly a human right and all State Governments should concentrate on making this a reality for all, including prisoners. The experiences in Karnataka, West Bengal and Delhi to the effect that medical facilities in prisons do not meet minimum standards of care is an indication that the human right to health is not given adequate importance in prisons and that may also be one of the causes of unnatural deaths in prisons. The State Governments are directed to study the availability of medical assistance to prisoners and take remedial steps wherever necessary.

58.9. The constitution of a Board of Visitors which includes non- official visitors is of considerable importance so that eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners. Merely changing the nomenclature of prisons to 'Correction Homes' will not resolve the problem. Some proactive steps are required to be taken by eminent members of society who should be included in the Board of Visitors. The State Governments are directed to constitute an appropriate Board of Visitors in terms of Chapter XXIX of the Model Prison Manual indicating their duties and responsibilities. This exercise should be completed by 30th November, 2017.

58.10. The suggestion given by the learned Amicus of encouraging the establishment of 'open jails' or 'open prisons' is certainly worth considering. It was brought to our notice that the experiment in Shimla (Himachal Pradesh) and the semi- open prison in Delhi are extremely successful and need to be carefully studied. Perhaps there might be equally successful

experiments carried out in other States as well and, if so, they require to be documented, studied and emulated.

58.11. The Ministry of Women & Child Development of the Government of India which is concerned with the implementation of Juvenile Justice (Care and Protection of Children) Act, 2015 is directed to discuss with the concerned officers of the State Governments and formulate procedures for tabulating the number of children (if any) who suffer an unnatural death in child care institutions where they are kept in custody either because they are in conflict with law or because they need care and protection. Necessary steps should be taken in this regard by 31st December, 2017.

59. We expect the above directions to be faithfully implemented by the Union of India and State Governments. In the event of any difficulty in the implementation of the above directions, the Bench hearing the suo motu public interest litigation in the High Court in term of our first direction is at liberty to consider those difficulties and pass necessary orders and directions."

18. In the light of the aforesaid legal proposition, we now consider the provisions concerning board of visitors under the Model Prison Manual, 2016, which show a marked difference from the Tamil Nadu Prison Rules, 1983. The board of visitors is presently required to monitor the correctional work in prisons, training and effectiveness of infrastructure in prisons; and give suggestions to improve the correctional work (para 29.02). Significantly, the role of the Board is not restricted to being a messenger carrying grievances from the prisoners to the authorities. It is now required to work on redressing their grievances in consultation with the prison authorities (para 29.02(c)). The duties of the visitors under the Manual (para 29.22) are reproduced below for the sake of specificity:

"a. Examine cooked food;

b. Inspect the barracks, wards, work-sheds and other buildings of the prison generally;

c. 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;

d. Examine prison registers and records, except secret records and records pertaining to accounts;

e. Hear and attend to all representation and petitions made by or on behalf of the prisoners;

f. Direct, if deemed advisable, that any such representation or petition be forwarded to the Government; and

g. Suggest new avenues for improvement in correctional work"

Further, the duties and powers of visitors under the Tamil Nadu Prison Rules, 1983 are general i.e., to visit all parts to satisfy oneself that the rules are duly complied with, give patient hearing to prisoners' complaints, inspect the maintenance of punishment books, and ensure that food is of good quality. There is a specific provision dealing with visitors' duty to attend to the quality and quantity of diet, medical facilities, sanitation, literacy programme and library facilities available to the prisoners (para 29.13). Thus, the duties of visitors under the Manual have become more specific, including the duty to ascertain if any prisoner has been detained illegally. The manual also provides for sensitization and training of nonofficials after their appointment (para 29.05). The remarks by visitors during the course of inspection are forwarded to the Inspector General who shall then take steps by either passing an order or forwarding the same to the government. The Manual also recognizes the right of the prisoners to converse secretly with the visitor, but within the sight of the prison officer (para 29.11). The details of what transpired during the conversation is communicated to the Chairman of the Board (i.e., District Judge), who shall take up the matter with the prison superintendent, if found necessary. The manual has also brought changes to the non-official membership of the Board. It is mandatory to have three Members of Legislative Assembly (MLAs) (of which one has to be a woman), a nominee of the State Human

Rights Commission and two social workers of the district/sub-division (of which one has to be a woman) as non-official members. This is a marked difference from the present Prison rules, which does not give a mandatory specification rather only specifies the people as a matter of preference. Thus, it is lucid that the State government has still not incorporated changes to its Prison Rules in accordance with the 2016 Model Prison Manual and it has also not implemented the visitation system under the 1983 Rules diligently.

19. At this juncture, it is pertinent to refer to United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The mechanism for informing the prisoners of their rights, standards of treatment in prisons and for them to make complaints and requests regarding their treatment in prisons, has been integral to the international standards for treatment of prisoners since 1955. It forms a part of the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Prisoners. Rules 35-36 deal with information to and complaints by prisoners. Rule 55 specifically deals with inspections to ensure compliance with laws and regulations. In 2011, attempts to review and revise these rules were made and an open-ended inter-governmental expert group was established by the General Assembly. With respect to information and complaints by prisoners, the revision sought to strengthen the mechanism by ensuring prompt dealing of complaints and requests. The inspection mechanism was revised by introducing a two-fold system of internal inspection by prison administration and external inspection by an independent body of persons. The revision also enabled the inspectors to perform their tasks effectively, by granting them access to prison records, power to make unannounced visits and conduct confidential interviews. The revised rules were ultimately adopted by the UN General Assembly as the “United Nations Standard Minimum Rules for the Treatment of Prisoners” vide resolution A/RES/70/175. The General Assembly also approved the rules to be known as “the Nelson Mandela Rules” in accordance with the recommendation of the expert group in his honour.

20. As per Rule 54 of the Nelson Mandela Rules, upon admission, every prisoner shall be promptly provided with written information about the prison law and regulations, his or her rights, including authorized methods of seeking information, access to legal advice, etc., his or her obligations including applicable disciplinary sanctions, and all other matters necessary to enable him / her to adapt himself or herself to the life of the prison. Rule 55 provides that the information referred to in Rule 54 shall be available in the most commonly used languages and shall be provided with interpretation assistance for those who do not understand the language. Rule 56 provides for an opportunity of making requests or complaints by the prisoner or his / her legal advisor, to the prison director or prison staff, regarding medical treatment to the central prison administration and to the judicial or other competent authorities, etc. According to Rule 57, every request or complaint shall be promptly dealt with and replied to without delay and if there is any undue delay, the complainant shall be entitled to bring it before a judicial or other authority. A prisoner or his / her legal advisor must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority. Under Rule 83, there shall be a two-fold system for regular inspections of prisons and penal services viz., internal inspections and external inspections. Internal inspections are conducted by the central prison administration and external inspections are conducted by an independent body. In both cases, the objective is to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that the rights of prisoners are protected. As per Rule 84, Inspectors shall have the authority, to access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention; to freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview; to conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits; to make recommendations to the prison administration and other

competent authorities. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass health-care professionals. Due regard shall be given to balanced gender representation. Rule 85 states that every inspection shall be followed by a written report to be submitted to the competent authority. The rule also highlights that endeavour must be made to make external inspections reports publicly available, excluding any personal data on prisoners unless they have given their explicit consent. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.

21. In this regard, it is pertinent to refer to the second report of the Commonwealth Human Rights Initiative (CHRI), published in 2019 on the functioning of the board of visitors and the appointment of non-official visitors. Analysing the compliance in all the States (except Jammu and Kashmir) as against the respective state rules, the report provides for certain recommendations for effective implementation of board of visitors across the states. It recommends that the board of visitors must be constituted within seven days of the appointment of non-official visitors, with the District Magistrate as the Chairperson. It recommends for an assured minimum tenure of visitors for a period of one year to ensure continuity and prevent the erosion of institutional memory. It recommends bi-monthly joint inspections and quarterly meetings at the prison premises during which the Board shall also consider the visitors' book and the action taken by the Superintendent on the remarks made in the visitors' book and called for corresponding amendments to the rules. The report also recommends that non-official visitors must have genuine interest in the welfare of prisons and of the prisoners with experience and knowledge in law, criminology, psychiatry, healthcare etc., with observation and listening skills. Further, it emphasises on gender balance and equitable representation of both men and women in the board. It also makes several recommendations as to reporting mechanism to ensure time-bound action by the state, which includes the right of the visitors to communicate with any authority they believe, is appropriate without having to go through the jail administration at the first instance. The report further recommends for voluntary disclosure of the names of the non-official visitors and their rosters inside the prison premises to enable the prisoners to know the same and bats for the uploading of minutes of the board meetings on the official website of the state prison department. Besides that, it recommends for an yearly state level meeting of official and non-official visitors of all prisons, chaired by the State Human Rights Commission with the participation of officials of the prisons and correctional services department to deliberate on improvements based on the visiting notes of the Board of Visitors.

22. It is also relevant to refer to the visitorial systems prevailing in other countries. Mechanism for visiting prisons to ensure compliance with laws, handle complaints from prisons to check human rights violations, and recommending systemic and policy level changes to prison administration is in place in different jurisdictions. We may refer to three select frameworks viz., (i) Independent Visitor Service in Western Australia, (ii) Prison Ombudsman in United Kingdom and (iii) Directorate of Inspections/Complaints in Kenya. The first two are external and independent accountability mechanisms, while the third one is an internal mechanism to deal with complaints and recommend changes.

23.(i) In Western Australia¹², there is an Independent Visitor Service (IVS) as an integral part of the state's accountability mechanisms. Independent Prison Visitors are appointed by the Minister under the Inspector of Custodial Services Act, 2003 to ensure the prisons operate in a just and humane manner. They are required to visit the allotted prison every three months and make a report following the visit to the Inspector of the Custodial Services recording the details of the visit and any complaints made by the prison inmates. The Inspector is then bound to review such reports to identify issues with the prison systems; report to the Ministry; and take appropriate actions to improve the quality of prisons. The independent visitors thus play an important role in

¹² <http://www.oics.wa.gov.au/about-oics/independent-visitor-service/>; Inspector of Custodial Services Act, 2003 available at: <http://testweb.oics.wa.gov.au/wp-content/uploads/2013/11/Inspector-of-CustodialServices-Act-2003.pdf>

safeguarding the rights and wellbeing of prisoners; voicing out the concerns of prisoners to the authorities; aiding the prison reforms by documenting the state of prison management and grievances of the prisoners.

(ii) In the United Kingdom¹³, there is an independent office of the Prison and Probation Ombudsman, sponsored by the Ministry of Justice. Though sponsored by the Ministry, the ombudsman is independent from government services and carries out investigations on complaints filed by the prisoners, custodial deaths and deaths (except homicide), within 14 days of release. Through such investigations, the ombudsman examines whether any operational or policy changes are required in the management of prisons. The terms of reference between the Ombudsman and the Secretary of State concerning operation of Ombudsman, ensures confidentiality of communication by the prisoner-complainant and fixes a time limit for considering and investigating complaints. Every investigation results in a written report, which can recommend disciplinary action against any staff named in the complaints. The ombudsman is also required to prepare and publish an annual report and the same is laid before the Parliament for legislative scrutiny.

(iii) Kenya¹⁴ has a separate directorate called the Directorate of Inspections/Complaints under the Kenya Prisons Service. It inspects and audits penal institutions to check implementation and compliance with the Prisons Act, rules and regulations for penal institutions; sensitizes the prison staff. It is also conferred with the responsibility to handle complaints by establishing complaint handling offices in prisons and training the officers in complaint handling. It also recommends improvements, changes and introduction of new correctional programmes.

24. During the course of argument, the petitioner has brought to the notice of this court the existence of the Academy of Prisons and Correctional Administration (APCA) situated at Vellore, the objective of which is to regularly train prison and correctional officers in order to achieve the goals of reformation, rehabilitation and reintegration of prisoners into the society. It offers different types of courses to the officials involved in prison administration and correctional services including:

(i) Basic Courses for different durations for prison officers, probation officers, psychologists and welfare officers

(ii) In-service courses for prison officers

(iii) Refresher course for serving prison officers for mutual learning and updating oneself with the latest developments in the subject

(iv) Computer course to appraise the officers regarding ICT applications

(v) Special courses in collaboration with renowned national and international institutions and organizations.

These courses are organized for capacity building of the stakeholders and officials involved to effectively implement the correctional works, rehabilitation of prisoners and their reintegration into the society post incarceration.

25. Thus, the overall appreciation of the legal framework prevailing in the state, central and international levels would necessitate us to observe that prison administration and its reforms must be carried out by keeping the objective of the prison system in the first place i.e., reformation of inmates, their rehabilitation and successful reintegration into the society at the end of their incarceration. The prison environment and culture among the inmates instilled by such an environment are significant factors in determining the success of incarceration. Any reform in prison management in order to achieve the said purpose must start with the department of prisons and correctional services. Improving the culture among inmates and the environment by certain

¹³ Terms of Reference available at: <https://s3-eu-west-2-amazonaws.com/ppo-prod-storage1g9rkhiijkjmgw/uploads/2021/12/PPO-2021-Terms-of-Reference-with-cover.pdf>

¹⁴ <http://www/prisons.go.ke/inspectionsComplainsMonitoringandevaluation>

administrative reforms will bring about a change in the behaviour of the inmates ultimately leading to an effective incarceration system with due regard for prisoner's rights.

26. Coming to the present case, it is seen from the documents filed in the form of typed set of papers as well as the replies given by various authorities under the RTI Act that for most of the applications, the Public Information Officer concerned has either refused to divulge the information or stated that no such record exists to be divulged. There are some replies where it was stated that the information sought for is confidential in nature and therefore, it cannot be shared. In few replies, available records have in fact been given to the applicant. As regards the applications submitted to the Judiciary, information on dates of visits of the Judges has been furnished. In several replies, the information was refused stating minutes of the meeting could not be furnished in view of the order passed by this Court.

27. It is also seen that in case of applications filed before the District Collectorate across the State, the information sought for was not furnished at all times on the grounds of diversion of resources. For some applications, it was replied that no record is maintained relating to the requests of prisoners. In another reply, it is stated that the Chief Education Officers never visited and there are no records to be furnished. However, from the replies filed along with the typed set of papers, it could be seen that Fire and Rescue Services Department has furnished the copies of the records maintained by them and they have also answered the queries relating to fire service related provisions, periodical checking of fire extinguishers and other provisions carried out in the prisons. In the case of Animal Husbandry Department, the applications submitted were replied by stating that there was no visit by any authority and therefore, no information could be furnished. Similar was the reply given by the office of the Chief Inspector of Factories to the petitioner. Thus, it can be inferred that no periodical visits had taken place and no remarks were made in the visitors' book; and that, there is no clear-cut picture about the prison administration and the facilities available to the prisoners in the prisons of the state of Tamil Nadu.

28. As already observed, the state government has not incorporated changes to the Tamil Nadu Prison Rules, 1983 in accordance with the Model Prison Manual, 2016 and has not effectively implemented the provisions relating to visitation system in the Rules. It is noted earlier that the non-official visitors are appointed by the District Collector of the concerned District by following the procedures as contemplated under the Prison Rules. Such appointment is essential to continuously monitor the physical conditions prevailing in the prison, compliance with basic and fundamental rights of the prisoners, etc. Therefore, it is necessary for the respondents to not only ensure the appointment of the non-official visitors and that, the duties and responsibilities are discharged by them, but also ensure that there is no delay in appointing a non-official visitor, after expiration of his or her tenure. It is evident from the materials placed before us, that the tenure of the non-official visitors in many districts expired and the appointment is not forthcoming even for several months. When such being so, we are of the opinion that the visitors who interact with prisoners and observe their conditions in close proximity, are indispensable for the enforcement of fundamental rights of prisoners and therefore, non-official visitors will have to be appointed with immediate effect. That apart, the prison administration needs to be reformed for creating a better environment and prison culture to ensure the prisoners enjoy their right to dignified life under Article 21.

29. Therefore, we deem it fit and appropriate to issue the following directions to the respondent authorities:

- (i) To constitute a committee to ensure periodic appointment of non-official visitors to all the prisons/jails within the State promptly upon expiry of the tenure of such non-official visitor.
- (ii) To constitute board of visitors in all prisons who could periodically review and advise the prison authorities on various aspects of facilities training, correctional work etc.
- (iii) The minutes of the meeting of the board of visitors along with the suggestions to the government shall be uploaded on the website, district/prison wise.

(iv) *To amend the Prison Act, 1894 and the Tamil Nadu Prison Rules, 1983 in accordance with the Model Prison Manual, 2016 and the United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Nelson Mandela Rules').* (v) *To take appropriate measures to reduce overcrowding of prisoners in the prisons, if not taken earlier.*

(vi) *To prepare a 'Prisoners' Rights Handbook' with information on their rights, applicable laws and regulations, mechanism for raising grievances/complaints with the board of visitors and other concerned authorities, expected behaviour from prisoners and disciplinary action for violations and to provide each prisoner with a copy of the same upon admission to the prisons. The same shall also be made available online on the website of the prison department.*

(vii) *The Office of the Inspector General of Prisons shall prepare an annual report with the remarks and suggestions of the visitors and board across the state, and the corresponding action taken by the prison department. The annual report prepared by the Inspector General containing the remarks and action taken must be published in the website.*

(viii) *To make all the facilities viz., medical equipment, drinking water, hygienic food available to the prisoners, at all times.*

(ix) *Regular training and refresher courses shall be conducted in collaboration with the Academy of Prisons and Correctional Administration for officials and prison staff, who directly interact with the inmates in order to create a sensitive and dignified prison environment.*

(x) *To provide effective grievance redressal system with the provisions of complaint box and CCTV cameras and alert system in the barracks of jails.*

(xi) *To ensure the effective functioning of visitorial system in reforming the prisons, the state government shall organize a yearly conference under the aegis of the State Human Rights Commission with the official and non-official visitors of the board of visitors across the state, officials concerned with prison administration and correctional services to consider the status of prison administration, deliberate on the report of the board of visitors and recommend changes in the prison administration."*

34. The State has a constitutional and moral obligation to uphold the rights of prisoners with disabilities. This includes not only ensuring non-discriminatory treatment but also enabling their effective rehabilitation and reintegration into society. This Court emphasizes that reasonable accommodations are not optional, but integral to any humane and just carceral system. A systemic transformation is urgently required – one grounded in compassion, accountability, and a firm constitutional commitment to dignity and equality. The disabilities of incarcerated individuals must not become a basis for further deprivation or suffering; rather, the prison system must evolve to affirm their rights and provide the care necessary for rehabilitation.

DIRECTIVES:

35. In light of the foregoing findings and in furtherance of Articles 14 and 21 of the Constitution of India, the RPwD Act, 2016, and India's international obligations under the UNCRPD, the following directions are issued for immediate and time-bound compliance:

1) All prison authorities shall promptly identify prisoners with disabilities at the time of admission. Each prisoner shall be given an opportunity to declare any disability and provide information about their specific needs.

1.1) All rules, regulations, and essential information about prison life shall be provided to such prisoners in accessible and understandable formats (e.g., Braille, large print, sign language, or simplified language).

2) All prison premises shall be equipped with wheelchair-friendly spaces, accessible toilets, ramps, and sensory-safe environments to ensure universal accessibility.

- 3) All prisons shall designate and maintain dedicated spaces for physiotherapy, psychotherapy and other necessary therapeutic services.
- 4) A State-level access audit of all prisons in Tamil Nadu shall be completed within six months by an expert committee comprising officials from the Social Welfare Department, the Department for the Welfare of Differently Abled Persons, and certified access auditors.
 - 4.1) Periodic audits shall thereafter be conducted and updated regularly in accordance with the Harmonized Guidelines and Standards for Universal Accessibility in India (2021).
- 5) The prison authorities shall ensure complete compliance with Sections 40 and 45 of the RPwD Act, 2016, Rule 15 of the 2017 Rules and the Harmonized Guidelines, 2021 in all prison infrastructure and services.
- 6) The State shall provide healthcare for prisoners with disabilities equivalent to that available in the community, including access to physiotherapy, speech therapy, psychiatric services, and assistive devices (such as wheelchairs, hearing aids, and crutches).
- 7) All prison medical officers shall be adequately trained and sensitized to address disabling conditions, ensuring provision of appropriate accommodations and treatment without discrimination or bias. Furthermore, regular awareness and sensitization programmes shall be conducted in all prisons.
- 8) Every prisoner with a disability shall be provided a nutritious and medically appropriate diet, tailored to their specific health and dietary needs.
- 9) Lifesaving treatments, including regular and need-based physiotherapy and psychotherapy must be made available on-site or through linkage with government health facilities.
- 10) All prison staff shall undergo comprehensive training on the rights of persons with disabilities. This training shall include:
 - awareness of equality and non-discrimination principles
 - proper handling of disability-related challenges
 - use of appropriate language and behaviour, as per the UN Handbook on Prisoners with Special Needs.
- 11) The State Prison Manual shall be reviewed and appropriately amended within six months to ensure conformity with the RPwD Act, 2016 and the UNCRPD.
 - 11.1) A specific section must be incorporated to prohibit discrimination against prisoners with disabilities and promote equal treatment and reasonable accommodation.
 - 11.2) The revised Manual shall be prominently displayed in every prison establishment.
- 12) The State shall undertake periodic consultations with civil society organisations working in the disability sector to develop inclusive policies and identify accommodations based on real needs.
- 13) The State shall constitute a monitoring committee to conduct periodic inspections and submit compliance reports every three months.
- 14) The State shall maintain and update disaggregated data on the disability status of prisoners, including records on accessibility, reasonable accommodations, and medical requirements.

14.1) This is to ensure compliance with Article 31 of the UNCRPD and the RPwD Act, 2016.

14.2) The data shall be made available in the public domain, subject to privacy safeguards.

15) The Director General of Prisons shall file a comprehensive compliance report before the State Human Rights Commission within three months from the date of this judgment, detailing all steps taken in furtherance of these directions.

35.1. We make it clear that these directions are issued in the larger public interest to uphold the dignity, and healthcare rights of prisoners with disabilities in all custodial settings. The obligations herein are rooted in India's constitutional guarantees, statutory mandates, and international human rights commitments.

36. With the above directions, this appeal stands disposed of. No costs.

Connected Miscellaneous Application(s), if any shall stand closed.

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