

W.P. (PIL) No.07 of 2020

SIKKIM DRUG USERS FORUM

...PETITIONER

VERSUS

STATE OF SIKKIM AND ORS.

...RESPONDENTS

Date: 15.10.2020

CORAM:

**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**

...

(ARUP KUMAR GOSWAMI, CJ)

Heard Ms. Mingma L. Sherpa, learned Counsel. Also heard Mr. Vivek Kohli, learned Advocate General, Sikkim for respondent nos.1 and 2.

By this Public Interest Litigation (PIL), the petitioner makes the following prayer:

- "I *That this Honorable Court be pleased to issue a writ of mandamus or any other order with direction in the nature of mandamus directing the State of Sikkim to forthwith determine its inmate holding capacity for each prison based on social distancing norms, hygiene, health, safety and human dignity as prescribed by the World Health Organization/ Central Government.*
- II *That this Honorable Court be pleased to issue a writ of mandamus or any other order with direction in the nature of mandamus directing the State of Sikkim to take rational steps to decongest its prisons so as to arrive at the inmate holding capacity for each prison determined as above by enlarging inmates on the necessary undertakings.*

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III That this Honorable Court be pleased to issue a writ of mandamus or any other order with direction in the nature of mandamus directing the State of Sikkim in furtherance of achieving an optimum inmate capacity due to the present pandemic release the following prisoners on a priority;

- i. Non-violent offender*
- ii. Sick or infirm UTPs/Convicts including those with HIV, TB, and other serious illnesses or co-morbidities such as diabetes, cancer, heart disease, blood pressure, etc.*
- iii. Women offenders;*
- iv. Women with children, pregnant women, lactating mothers;*
- v. Prisoners with disabilities;*
- vi. Aged prisoners over 60 years;*
- vii. In addition, the following categories of convicts may also be considered for release;*

1. Convicts who have completed their sentence however due to non-payment of fine are still in prison.

2. Convicts who are in semi open or open prisons and may soon be released.

3. Convicts who are eligible for premature release;

IV For any other order or direction which this Honorable Court may deem fit to secure the ends of justice in the facts and circumstances of this case.”

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At the very outset, Mr. Kohli submits that the Hon'ble Supreme Court has taken cognizance of the issues sought to be raised in this petition in Suo-Motu W.P. (C) No.01/2020. Mr. Kohli has also submitted that the aforesaid writ petition is pending before the Hon'ble Supreme Court and notice was also issued to the State of Sikkim. It is also submitted by him in terms of the order of the Hon'ble Supreme Court dated 23.03.2020, a high-powered committee was constituted by the State of Sikkim on 30.03.2020. Accordingly, he submits that since the Hon'ble Supreme Court is in session of the matter, it may not be appropriate for this Court to entertain the PIL.

Ms. Sherpa very fairly submits that in the aforesaid writ petition the Hon'ble Supreme Court is considering various facets relating to inmates in jail in the wake of Covid-19 Pandemic.

In view of the above, we do not consider it appropriate to entertain this PIL and, accordingly, the same is closed and disposed of.

Judge

Chief Justice

pm/