

22.03.2021
ITEM NO. 1
Ct. No.1
AD & Saswata

WPA (P) 27 of 2021
(Via video conference)

The Court on its own motion:
In Re: UTP Dipak Joshi, lodged in Dum Dum
Central Correctional Home

Mr. Saikat Banerjee

Mr. V.Tripathi

... for High Court administration

Mr. Kishore Datta, Ld. AG

... for the State

Mr. Jayanta Narayan Chatterjee

Ms. Nondini Chatterjee

Ms. Chandrima Roy Karmakar

... for the SLSA

Mr. Hirak Sinha

Mr. Pradip Mondal

... for the Consulate General of Nepal

Mr. Malay Bhattacharyya

Mr. Subhrajyoti Ghosh

... for relative of UTP, Dipak Joshi

1. We have seen the report given by the Superintendent of Dum Dum Central Correctional Home to the Secretary of the DLSA, North 24 Parganas as per memo no. 3929/WO dated 03.11.2020. The Secretary, DLSA, North 24 Parganas is hereby directed to file a short report as to what is the action taken on the basis of the inputs contained in that memo.
2. We expect that report to be available when this case is to be listed on Thursday, i.e., 25.03.2021 at the top.
3. The Registrar General of this Court will communicate the contents of this order to the

officer concerned telephonically as well, to expedite the availability of the report. The copy of this order will also be communicated by e-mail/fax as would be deemed appropriate.

(Thottathil B. Radhakrishnan, CJ.)

(Aniruddha Roy, J.)

Later:

1. The Additional Director General and Inspector General of Police, Correctional Services, West Bengal Police, being respondent no. 5, is directed to forthwith collect details from all the correctional homes in the State of West Bengal regarding the undertrials, who are unfit to stand trial as of now, in terms of Chapter XXV of the Cr.P.C.
2. The Status report of UTPs who are eligible for release under Sections 436 and 436A of the Cr.P.C. shall also be separately available. Let such report be placed before us on Thursday, i.e., 25.03.2021.
3. This order will also be communicated by the Registrar General to the Additional Director General and Inspector General of Police Correctional Services, West Bengal Police forthwith for compliance.

(Thottathil B. Radhakrishnan, CJ.)

(Aniruddha Roy, J.)

Later:

1. Learned counsel for the Nepal Consulate submits that following earlier orders, Dipak Joshi was released from Dum Dum Central Correctional Home and was accompanied by his relative and an officer of the Nepal Consulate and accordingly, Dipak Joshi has been delivered to his home where now, he is accompanied by his mother who is more than 90 years of age.
2. We are told that Dipak Joshi and his family are economically marginalized and also face social challenges on account of the detention and continued incarceration of Dipak Joshi. The detention of Dipak Joshi for about 41 years or so, that too without trial and also without resorting to other due proceedings, prompt us to consider whether he is to be supported with an order of compensation or damages, as against the State. We think that it is appropriate to look into the issue as to whether an order of compensation or damages, as against the State could be passed.
3. We notify this to the learned Advocate General on behalf of the State so that requisite response on this matter can be placed by the learned Advocate General. We are sure that the State will look at it from a proactive and pragmatic view.

4. This issue will stand over for consideration in due course and will not be addressed at the next date of hearing which we have already fixed up.

(Thottathil B. Radhakrishnan, CJ.)

(Aniruddha Roy, J.)