



2026 INSC 198

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO(S). 1082 OF 2020**

**SUHAS CHAKMA**

**....PETITIONER(S)**

**VERSUS**

**UNION OF INDIA AND  
ORS.**

**....RESPONDENT(S)**

**J U D G M E N T**

**Mehta, J.**

For clarity of exposition and to facilitate structured consideration of the issues arising in the present matter, this judgment has been organised under the following heads: -

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***“No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens but its lowest ones.”***

**- Nelson Mandela**

## **I. PROLOGUE**

**1.** The strength of a constitutional democracy is tested not merely by the liberties it guarantees in abstraction, but by the manner in which it treats those who stand at its margins, including persons deprived of their liberty with due process of law. Prisons, though instruments of lawful confinement, are not spaces where constitutional values can cease to operate. The guarantee of life and personal dignity under Article 21 of the Constitution of India extends beyond the prison gates and obliges the State to ensure that incarceration does not degenerate into inhumanity. Overcrowded prisons, bereft of humane living conditions and rehabilitative avenues, strike at the very core of this constitutional promise and call

for sustained institutional response rather than sporadic remedial measures. It is within this constitutional conscience that the present proceedings have emerged.

**2.** This Court, as far back as in the year 2018, by its order dated 8<sup>th</sup> May, 2018 passed in ***In Re: Inhuman Conditions in 1382 Prisons***, had directed all States and Union Territories to take immediate steps to align their respective prison rules with the Model Uniform Rules for the Administration of Open Correctional Institutions, and to duly adopt, notify and implement the said rules, along with undertaking appropriate measures for the effective implementation and strengthening of the framework regarding Open Correctional Institutions within their respective jurisdictions. The said proceedings continue to engage the attention of this Court and form part of an ongoing judicial endeavour to address

the systemic infirmities afflicting prison administration in the country, particularly the persistent problem of overcrowding.

3. The figures emerging from the ***National Crime Records Bureau Report titled “Prison Statistics India, 2023”***, paints a deeply concerning picture. On a cumulative basis, prisons across the country are operating at an occupancy level of 120.8%, with several States including Madhya Pradesh, Maharashtra, Meghalaya, Uttar Pradesh and Uttarakhand as well as the National Capital Territory of Delhi, reporting occupancy levels exceeding 150%. Such chronic overcrowding is not merely an index of administrative strain, but has profound implications for human dignity, prison safety, access to healthcare, prospects of rehabilitation and adherence to the constitutional guarantees. For ready reference,

the relevant table extracted from the said report is reproduced hereinbelow: -

| Table – 1.2                                                                                   |                          |                    |              |            |               |                   |              |            |               |                                    |             |             |              |
|-----------------------------------------------------------------------------------------------|--------------------------|--------------------|--------------|------------|---------------|-------------------|--------------|------------|---------------|------------------------------------|-------------|-------------|--------------|
| Capacity, Inmate Population and Occupancy Rate of Jails as on 31 <sup>st</sup> December, 2023 |                          |                    |              |            |               |                   |              |            |               |                                    |             |             |              |
| Sl. No.                                                                                       | State/UT                 | Available Capacity |              |            |               | Inmate Population |              |            |               | Occupancy Rate <sup>§</sup> (in %) |             |             |              |
|                                                                                               |                          | M                  | F            | Tr.        | Total         | M                 | F            | Tr.        | Total         | M                                  | F           | Tr.         | Total        |
| (1)                                                                                           | (2)                      | (3)                | (4)          | (5)        | (6)           | (7)               | (8)          | (9)        | (10)          | (11)                               | (12)        | (13)        | (14)         |
| 1                                                                                             | ANDHRA PRADESH           | 7901               | 930          | 0          | 8831          | 7460              | 420          | 9          | 7889          | 94.4                               | 45.2        | -           | 89.3         |
| 2                                                                                             | ARUNACHAL PRADESH        | 359                | 24           | 0          | 383           | 349               | 11           | 0          | 360           | 97.2                               | 45.8        | -           | 94.0         |
| 3                                                                                             | ASSAM                    | 9341               | 779          | 0          | 10120         | 10247             | 405          | 0          | 10652         | 109.7                              | 52.0        | -           | 105.3        |
| 4                                                                                             | BIHAR                    | 46919              | 2100         | 0          | 49019         | 51045             | 2029         | 2          | 53076         | 108.8                              | 96.6        | -           | 108.3        |
| 5                                                                                             | CHHATTISGARH             | 13524              | 859          | 0          | 14383         | 17642             | 777          | 2          | 18421         | 130.4                              | 90.5        | -           | 128.1        |
| 6                                                                                             | GOA                      | 574                | 50           | 0          | 624           | 533               | 35           | 0          | 568           | 92.9                               | 70.0        | -           | 91.0         |
| 7                                                                                             | GUJARAT                  | 12896              | 1169         | 0          | 14065         | 16710             | 549          | 6          | 17265         | 129.6                              | 47.0        | -           | 122.8        |
| 8                                                                                             | HARYANA                  | 20144              | 1883         | 18         | 22045         | 25027             | 805          | 1          | 25833         | 124.2                              | 42.8        | 5.6         | 117.2        |
| 9                                                                                             | HIMACHAL PRADESH         | 2365               | 195          | 0          | 2560          | 2717              | 99           | 0          | 2816          | 114.9                              | 50.8        | -           | 110.0        |
| 10                                                                                            | JHARKHAND                | 16725              | 946          | 0          | 17671         | 18054             | 808          | 0          | 18862         | 107.9                              | 85.4        | -           | 106.7        |
| 11                                                                                            | KARNATAKA                | 13059              | 1168         | 10         | 14237         | 14725             | 511          | 0          | 15236         | 112.8                              | 43.8        | 0.0         | 107.0        |
| 12                                                                                            | KERALA                   | 7362               | 443          | 18         | 7823          | 9690              | 229          | 1          | 9920          | 131.6                              | 51.7        | 5.6         | 126.8        |
| 13                                                                                            | MADHYA PRADESH           | 27915              | 1956         | 4          | 29875         | 43736             | 1803         | 4          | 45543         | 156.7                              | 92.2        | 100.0       | 152.4        |
| 14                                                                                            | MAHARASHTRA              | 24818              | 1437         | 26         | 26281         | 39076             | 1703         | 26         | 40805         | 157.5                              | 118.5       | 100.0       | 155.3        |
| 15                                                                                            | MANIPUR                  | 965                | 195          | 0          | 1160          | 504               | 31           | 0          | 535           | 52.2                               | 15.9        | -           | 46.1         |
| 16                                                                                            | MEGHALAYA                | 625                | 55           | 0          | 680           | 1260              | 23           | 0          | 1283          | 201.6                              | 41.8        | -           | 188.7        |
| 17                                                                                            | MIZORAM                  | 1130               | 256          | 0          | 1386          | 1676              | 281          | 0          | 1957          | 148.3                              | 109.8       | -           | 141.2        |
| 18                                                                                            | NAGALAND                 | 1290               | 200          | 0          | 1490          | 563               | 28           | 0          | 591           | 43.6                               | 14.0        | -           | 39.7         |
| 19                                                                                            | ODISHA                   | 22530              | 2116         | 20         | 24666         | 17572             | 594          | 4          | 18170         | 78.0                               | 28.1        | 20.0        | 73.7         |
| 20                                                                                            | PUNJAB                   | 24373              | 2170         | 0          | 26543         | 30018             | 1502         | 9          | 31529         | 123.2                              | 69.2        | -           | 118.8        |
| 21                                                                                            | RAJASTHAN                | 21618              | 1670         | 0          | 23288         | 22146             | 590          | 1          | 22737         | 102.4                              | 35.3        | -           | 97.6         |
| 22                                                                                            | SIKKIM                   | 234                | 26           | 0          | 260           | 315               | 3            | 0          | 318           | 134.6                              | 11.5        | -           | 122.3        |
| 23                                                                                            | TAMIL NADU               | 21740              | 2602         | 0          | 24342         | 18847             | 889          | 2          | 19738         | 86.7                               | 34.2        | -           | 81.1         |
| 24                                                                                            | TELANGANA                | 7284               | 752          | 1          | 8037          | 5497              | 355          | 1          | 5853          | 75.5                               | 47.2        | 100.0       | 72.8         |
| 25                                                                                            | TRIPURA                  | 2169               | 179          | 0          | 2348          | 1246              | 83           | 0          | 1329          | 57.4                               | 46.4        | -           | 56.6         |
| 26                                                                                            | UTTAR PRADESH            | 62481              | 3369         | 16         | 65866         | 94916             | 3926         | 7          | 98849         | 151.9                              | 116.5       | 43.8        | 150.1        |
| 27                                                                                            | UTTARAKHAND              | 3603               | 158          | 0          | 3761          | 6616              | 268          | 1          | 6885          | 183.6                              | 169.6       | -           | 183.1        |
| 28                                                                                            | WEST BENGAL              | 19556              | 1920         | 0          | 21476         | 23958             | 1791         | 25         | 25774         | 122.5                              | 93.3        | -           | 120.0        |
|                                                                                               | <b>TOTAL (STATES)</b>    | <b>393500</b>      | <b>29607</b> | <b>113</b> | <b>423220</b> | <b>482145</b>     | <b>20548</b> | <b>101</b> | <b>502794</b> | <b>122.5</b>                       | <b>69.4</b> | <b>89.4</b> | <b>118.8</b> |
| 29                                                                                            | A & N ISLANDS            | 279                | 40           | 0          | 319           | 369               | 4            | 0          | 373           | 132.3                              | 10.0        | -           | 116.9        |
| 30                                                                                            | CHANDIGARH               | 1000               | 120          | 0          | 1120          | 1027              | 42           | 0          | 1069          | 102.7                              | 35.0        | -           | 95.4         |
| 31                                                                                            | DNH & DAMAN DIU          | 160                | 10           | 0          | 170           | 144               | 1            | 0          | 145           | 90.0                               | 10.0        | -           | 85.3         |
| 32                                                                                            | DELHI                    | 9346               | 680          | 0          | 10026         | 19357             | 713          | 7          | 20077         | 207.1                              | 104.9       | -           | 200.2        |
| 33                                                                                            | JAMMU & KASHMIR          | 3457               | 172          | 0          | 3629          | 5215              | 185          | 0          | 5400          | 150.9                              | 107.6       | -           | 148.8        |
| 34                                                                                            | LADAKH                   | 150                | 5            | 0          | 155           | 46                | 0            | 0          | 46            | 30.7                               | 0.0         | -           | 29.7         |
| 35                                                                                            | LAKSHADWEEP              | 64                 | 0            | 0          | 64            | 3                 | 0            | 0          | 3             | 4.7                                | -           | -           | 4.7          |
| 36                                                                                            | PUDUCHERRY               | 371                | 45           | 0          | 416           | 409               | 17           | 0          | 426           | 110.2                              | 37.8        | -           | 102.4        |
|                                                                                               | <b>TOTAL (UTs)</b>       | <b>14827</b>       | <b>1072</b>  | <b>0</b>   | <b>15899</b>  | <b>26570</b>      | <b>962</b>   | <b>7</b>   | <b>27539</b>  | <b>179.2</b>                       | <b>89.7</b> | <b>-</b>    | <b>173.2</b> |
|                                                                                               | <b>TOTAL (ALL-INDIA)</b> | <b>408327</b>      | <b>30679</b> | <b>113</b> | <b>439119</b> | <b>508715</b>     | <b>21510</b> | <b>108</b> | <b>530333</b> | <b>124.6</b>                       | <b>70.1</b> | <b>95.6</b> | <b>120.8</b> |

Inmate Population

§ Occupancy Rate =  $\frac{\text{Inmate Population}}{\text{Total Capacity}} \times 100$

Total Capacity

Occupancy Rate <100 shows space available for inmates in prisons. Occupancy Rate >100 shows overcrowding in prisons.

• As per data provided by States/UTs.

4. While dealing with the issue of overcrowding in ***In Re: Inhuman Conditions in 1382 Prisons***, this Court had already taken note of the fact that Open Correctional Institutions constitute one of the most effective, humane and sustainable responses to congestion in closed prisons, while simultaneously advancing the objectives of reformative and rehabilitative penology. The present proceedings reaffirm that assessment. The statistics placed before this Court by the learned *amicus curiae*, based on data furnished from the Study titled **“The Open Prisons of Rajasthan” published by Rajasthan State Legal Services Authority**, indicate that the per-prisoner monthly expenditure in an Open Correctional Institution is approximately Rs.500/-, as compared to Rs.7,094/- per month in a closed prison. After reserving the judgment in the present proceedings, this Court requisitioned updated fiscal

data from the State of Rajasthan, which further affirmed the earlier position and revealed that the per-prisoner per-day expenditure in closed prisons is approximately Rs.333.12/-, whereas in open prisons it is approximately Rs.49.60/-, thereby demonstrating a substantial and sustained cost differential in favour of Open Correctional Institutions. These figures highlight not merely the rehabilitative efficacy of Open Correctional Institutions, but also their marked fiscal prudence and administrative sustainability, reinforcing their status as a rational and constitutionally aligned component of the criminal justice and prison administration framework.

**5.** Despite repeated judicial exhortations, the availability of model frameworks and the clear constitutional, penological and fiscal advantages of Open Correctional Institutions, this Court is

constrained to observe that the response of several States and Union Territories continues to be marked by rank apathy and indifference. The persistent failure to meaningfully adopt and expand what is widely acknowledged as one of the most effective solutions to overcrowding in prisons and reformatory theory of punishment reflects a troubling disconnect between constitutional mandate and executive action. It is in this backdrop that this Court is compelled, once again, to revisit the issue and to lay down structured and enforceable directions, so that Open Correctional Institutions are no longer treated as peripheral experiments, but are firmly embedded as integral components of a humane, reformatory and constitutionally compliant correctional system.

## **II. INTRODUCTION**

**6.** The instant writ petition has drawn the attention of this Court towards conditions of

confinement in the existing prison system that invite deeper reflection on the nature and purpose of punishment itself. Beyond the immediate concerns placed before this Court lie fundamental questions about whether systems designed for correction continue to embody the values of correction, reformation and social healing, or whether they have hardened and evolved into structures of exclusion and persecution beyond mere incarceration. The petition, while anchored in specific grievances, thus opens a wider constitutional inquiry into the State's duty to ensure that confinement of prisoners and more specifically, convicts remain consistent with evolving standards of human dignity and fairness.

**7.** The issues raised in the present proceedings are neither transitory nor confined to exceptional or isolated circumstances. They engage the enduring obligation of the State to harmonise legitimate

penological/sentencing objectives with the constitutional imperatives of dignity, equality, reformation and reintegration into the society. The present case, therefore, requires this Court to not only examine the immediate measures for decongestion in prisons, but also to consider and evaluate structural and systemic approaches that further purposive rehabilitation, enable social reintegration, and secure meaningful access to justice for prisoners, while ensuring accountability and uniformity in prison administration across States and Union Territories. It is in this normative and institutional framework that this Court proceeds to examine the matters that arise for determination.

### **III. OVERVIEW OF THE WRIT PETITION AND PROCEEDINGS BEFORE THIS COURT**

8. The instant writ petition was instituted under Article 32 of the Constitution of India raising serious

concerns regarding the persistent problem of overcrowding in prisons across the country. The petition highlighted that excessive prison populations, far exceeding sanctioned capacities, had resulted in inhuman and degrading living conditions for inmates, thereby infringing their fundamental rights under Article 21 of the Constitution. The petitioner had, *inter alia*, sought directions for creation of effective and permanent mechanisms to address and alleviate prison overcrowding, including decongestion measures, transfer of inmates, and formulation of structural avenues to ensure humane conditions of detention, particularly in the backdrop of public health emergencies like the COVID-19 pandemic. For the sake of ready reference, the reliefs sought in the writ petition are reproduced hereinbelow: -

“(a) issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that

this Hon'ble Court deems just and proper in the facts and circumstances of the present case, directing the Respondents to provide the latest prison-wise information occupancy against the sanctioned capacity;

**(b)** issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that this Hon'ble Court deems just and proper in the facts and circumstances of the present case to make the High Powered Committee established by this Hon'ble Court in ***Re: Contagion of COVID 19 Virus in Prison [Suo Motu Writ Petition (Civil) No.1/2020]*** permanent one with the power to (i) regularly monitor occupancy against sanctioned capacity in each prison; and (ii) recommend release of prisoners on bail or parole and transfer of prisoners from overcrowded prisons to the prisons having lower number of prisoners *vis-a-vis* sanctioned capacity in the same State/UT to ensure that no prisoner is subjected to torture or to cruel, inhuman or degrading treatment or punishment because of overcrowding and unhygienic conditions and prisoners enjoy the right to be treated with humanity and with respect for the inherent dignity of the human person;

**(c)** issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that this Hon'ble Court deems just and proper in the facts and circumstances of the present case, directing the High Powered Committee established by this Hon'ble Court in ***Re: Contagion of COVID 19 Virus in Prison [Suo Motu Writ Petition (Civil) No.1/2020]*** to file Quarterly Report(s) before the Chief Justice of their respective High Court, informing/intimating (i) about occupancy against sanctioned capacity in each prisons; and (ii) release of prisoners on bail or parole and transfer of prisoners from overcrowded prisons to the prisons having lower number of prisoners *vis-a-vis* sanctioned capacity in the same State/UT; and

(d) pass such other and further order(s) that this Hon'ble Court deems fit and proper in the facts and circumstances of the present case and in the interest of justice/equity."

9. The instant writ petition was initially heard along with ***In Re: Contagion of COVID 19 Virus in Prison***<sup>1</sup>. However, after deeper evaluation, the same came to be de-tagged *vide* order dated 17<sup>th</sup> July, 2023. Thereafter, on 9<sup>th</sup> May, 2024, this Court, while continuing its examination of the issues arising in the present matter, observed that one of the viable and sustainable measures for addressing the problem of overcrowding in prisons would be the establishment of open prisons/camps, which would simultaneously subserve the objective of rehabilitation and reintegration of prisoners into the society. In order to facilitate a comprehensive and balanced adjudication of the issues involved, this Court appointed Mr. K.

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<sup>1</sup> Suo Motu Writ Petition (Civil) No.1/2020

Parameshwar as *amicus curiae*, in addition to Mr. Vijay Hansaria, learned Senior Advocate, who was already assisting the Court. This Court also requested Ms. Rashmi Nandakumar, learned counsel appearing for the National Legal Services Authority (NALSA), to assist the Court in these proceedings. The relevant extract of the aforesaid order is reproduced hereinbelow: -

**“3. One of the solutions for overcrowding of the prisons can be establishing open prisons/camps.**

4. The said system is efficiently working in the State of Rajasthan.

**5. Apart from addressing the issue of congestion in prisons, it also addresses the issue of rehabilitation of prisoners.**

**6. We, therefore, request Shri K. Parameshwar, who has worked on the said issue, to assist this Court as an *Amicus Curiae*, in addition to Mr. Vijay Hansaria, Senior Advocate, who is already assisting us in this matter. We also request Ms. Rashmi Nandakumar, learned counsel, who appears for the NALSA, to assist us in this matter.”**

**[Emphasis supplied]**

**10.** When the matter came up for hearing before this Court on 17<sup>th</sup> May, 2024, Mr. K. Parameshwar,

learned *amicus curiae*, informed the Court that the Union of India has engrafted a model draft manual referring to such facilities as **“Open Correctional Institutions”**<sup>2</sup>, and that despite their existence under varying nomenclature in several States, these institutions are not being utilised to their optimum capacity. It was submitted that strengthening the OCIs would not only alleviate overcrowding in prisons but will also further the rehabilitation of prisoners and address social inequities faced by them.

**11.** Considering the seminal importance of the issue, this Court requested the learned *amicus curiae* and Ms. Rashmi Nandakumar, learned counsel appearing for NALSA, to jointly prepare and circulate a questionnaire to all the States to ascertain the status and functioning of such institutions. The

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<sup>2</sup> Hereinafter, being referred to as “OCIs”.

States of Rajasthan, Maharashtra, Kerala and West Bengal were directed to share their best practices and regulatory frameworks with NALSA. The Ministry of Home Affairs was directed to place a status report on record regarding developments subsequent to the formulation of the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023. This Court further directed that there shall be no reduction in the area of open-air camps/institutions/prisons, wherever they are functioning. The relevant extract of the aforesaid order is reproduced hereinbelow: -

“1. *Vide* order dated 9<sup>th</sup> May 2024 we had flagged the issue with regard to the open-air camps/institutions/prisons, etc.

**2. Shri K. Parameshwar, learned *Amicus Curiae* submits that a model draft manual has been prepared by the Union of India wherein the nomenclature ‘Open Correctional Institutions’ is used for such facilities.**

**3. The data put on record wherein such Open Correctional Institutions are shown to be functioning in different names, would further show that the said institutions are not being utilized to their optimum capacity.**

**4. The learned *Amicus Curiae* submits that strengthening of the Open Correctional Institutions, apart from addressing the present issue of overcrowding of prisons, would also help in the rehabilitation of prisoners and do away with caste discrimination faced by them.**

**5. Taking into consideration the importance of the matter, we request Shri K. Parameshwar, the learned *Amicus Curiae* and Ms. Rashmi Nandakumar, learned counsel appearing for the NALSA, to jointly prepare and circulate a questionnaire to obtain information from all the States in respect of the status and functioning of the Open Correctional Institutions.**

**6. We direct four States i.e. Rajasthan, Maharashtra, Kerala and West Bengal, where such facilities are functioning most robustly, to share their best practices, applicable rules, guidelines and experience on setting up expansion and management of the Open Correctional Institutions with the NALSA.**

**7. The Registry shall communicate this order to the Chief Secretary of the States of Rajasthan, Maharashtra, Kerala and West Bengal for compliance.**

**8. We further direct the Ministry of Home Affairs to present a status report on recent developments in respect of the Open Correctional Institutions after coming of the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023.**

**9. We are also informed that there is a proposal to reduce the area at Sanganer Open Air Camp at Jaipur. We thus direct that there shall be no attempt of reduction in area of open-air camps/institutions/prisons, wherever they are functioning.”**

**[Emphasis supplied]**

**12.** Subsequently, in order to ensure structured and effective adjudication of the issues arising in the present proceedings, this Court considered it appropriate to segregate the adjudication into two distinct heads, namely: **(i)** the issue pertaining to Open Correctional Institutions (OCIs), and **(ii)** the issue concerning the provision of legal aid to prisoners. Insofar as the second issue is concerned, this Court delivered its judgment on 23<sup>rd</sup> October, 2024, wherein wide-ranging and substantive directions were issued to strengthen and institutionalise the framework for providing legal aid to prisoners. With respect to the first issue relating to OCIs, this Court, in the interest of justice and to enable full compliance with its earlier directions, granted further time to the States and Union Territories which had not complied with the order dated 17<sup>th</sup> May, 2024 to furnish the information

sought in the questionnaire circulated by the learned *amicus curiae*. Accordingly, opportunities were afforded on two occasions, i.e., *vide* orders dated 15<sup>th</sup> July, 2024 and 20<sup>th</sup> August, 2024, to such States and Union Territories to place the requisite data and responses on record. It was further clarified that in the event of any State Government or Union Territory failing to respond in terms of the orders passed by this Court, this Court will be constrained to direct the personal presence of the Chief Secretary of the State or Union Territory concerned. The relevant extracts of the aforesaid orders are reproduced hereinbelow: -

**“Order dated 15<sup>th</sup> July, 2024**

5. Mr. K. Parameshwar, learned Amicus Curiae submits that some of the States/Union Territories are yet to file their respective response in pursuance to the directions issued by this Court on 17<sup>th</sup> May, 2024.

**6. We, therefore, direct the Registrar (Judicial) to forward a copy of the order dated 17<sup>th</sup> May, 2024 along with the present order asking the Chief Secretaries of States of Andhra Pradesh, Arunachal Pradesh, Gujarat, Haryana, Jammu & Kashmir, Jharkhand, Maharashtra, Manipur, Nagaland, Tamil Nadu, Telangana, Uttar Pradesh**

**and the Administrators of Andaman & Nicobar, Dadra & Nagar Haveli, Daman & Diu, Delhi, Lakshadweep, Puducherry and Ladakh to file their responses in pursuance to the order dated 17th May, 2024 passed by this Court.**

7. The responses by the concerned States/Union Territories shall be filed within a period of three weeks from today.

**Order dated 20<sup>th</sup> August, 2024**

1. In order dated 15<sup>th</sup> July, 2024, this Court had directed to the Chief Secretary of the various States/Union Territories to submit their response to the order dated 17<sup>th</sup> May, 2024.

2. Shri K. Parameshwar, learned senior counsel (A.C.) states that the States/Union Territories of Gujarat, Haryana, Jammu & Kashmir, Maharashtra, Manipur, Nagaland, Telangana, Uttar Pradesh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Puducherry and Ladakh, have not yet filed their response.

3. It is further stated that the NCT of Delhi, Himachal Pradesh, Madhya Pradesh and Punjab have not submitted qualitative/quantitative charts, despite the questionnaire indicating that these states have Open Correctional Institutes.

4. It is further stated that the affidavits filed by the State of Andhra Pradesh and Tamil Nadu also do not contain all the requisite specific information.

**5. We, therefore, direct that all the States/Union Territories, which have not yet filed their response, to file complete response within a period of four weeks from today.**

**6. The States/Union Territories, which have not given complete information, shall also give complete information within a period of four weeks from today.**

**7. The registry is directed to ensure that the order is communicated to the Chief Secretaries of all the States/Union Territories concerned.**

**8. We further clarify that if any of the State Governments or Union Territories do not**

**respond in terms of the orders passed by this Court, we will be compelled to direct the presence of the Chief Secretary of the States/Union Territories concerned before this Court.**

9. We direct the aforementioned States and Union Territories to fill and submit both of the following within four weeks from today, so that complete information may be ascertained and analysed:

- (i) Qualitative questionnaire accessible at <https://forms.gle/feCudANsXDBL3o3J8>; and
- (ii) Quantitative OCI Chart accessible at <https://docs.google.com/document/d/11jMrb7YCurpLOtdqemyYswQA9tZhwTuNrhaOYhzkVMo/edit?usp=sharing>”

**[Emphasis supplied]**

**13.** It is relevant to note that despite repeated opportunities being given to the States and Union Territories, States of Telangana, Haryana and Madhya Pradesh have not placed on record the requisite information as sought for by the learned *amicus curiae*.

**IV. SUMMARY OF WRITTEN SUBMISSIONS AND  
CONVENIENCE COMPILATIONS FILED BY  
THE *AMICUS CURIAE* PURSUANT TO THIS  
COURT’S ORDER DATED 17<sup>th</sup> MAY, 2024**

**A. Affidavit of Union of India**

14. Learned *amicus curiae*, in the written submissions has adverted to the affidavit dated 9<sup>th</sup> July, 2024 filed by the Union of India, wherein it was stated that the Model Prison Manual, 2016 with a specific chapter devoted to OCIs and the Model Prisons and Correctional Services Act, 2023, has been circulated to all the States and Union Territories for guidance on prison administration. In the said affidavit, it has been further submitted that since “prisons and persons detained therein” is a subject falling under the State List in the Seventh Schedule to the Constitution of India, it is for the respective States and Union Territories to take appropriate policy decisions and administrative action for the

establishment, expansion and effective functioning of OCIs. Thus, the Union of India has emphasised that while normative guidance has been provided at the central level, the primary responsibility of implementation rests with the States and Union Territories.

**B. Best Practices in the Management and Governance of OCIs**

**15.** Pursuant to the directions issued by this Court *vide* order dated 17<sup>th</sup> May, 2024, the States of Rajasthan, Maharashtra, Kerala and West Bengal were asked to share their best practices, applicable rules, guidelines and experiential inputs in relation to the establishment, expansion and management of OCIs. In compliance therewith, the States of Maharashtra, Rajasthan and Kerala have placed on record their respective submissions, detailing the operational frameworks and rehabilitative models

adopted in their jurisdictions. The material placed by these States reflects varied but instructive approaches towards governance of OCIs, with emphasis on graded eligibility criteria for transfer from closed prisons, opportunities for family integration, avenues for meaningful work and remuneration, educational and vocational training, internal self-governance mechanisms, parole and remission benefits, and wider access to healthcare and legal aid.

**16.** From the submissions of the State of Maharashtra, it emerges that prisoners are selected for transfer to open prisons on the basis of seniority, conduct and physical and mental ability to work, subject to the completion of a stipulated portion of sentence awarded to them. Inmates are permitted to reside with their families, cultivate land, prepare their own meals and earn wages at rates significantly

higher than those in closed prisons. The State has also provided for agricultural and allied vocational training, employment with government and private entities, enhanced remission, parole and furlough, periodic visits to native places, and financial assistance upon release, all of which are stated to contribute to improved mental health, rehabilitation and reintegration into the society.

**17.** The State of Rajasthan has highlighted its well-established open-air camp system, where inmates, including women, are permitted to reside with their families, pursue livelihoods outside the camp during the day, and participate in internal self-governance through mechanisms such as the OCI Sarpanch System, Prisoner Panchayat and Works and Discipline Committee. Provisions for education and Anganwadi facilities for children, cooperative societies for daily needs, and significantly lower staff

requirements and reduced expenditure as compared to closed prisons have also been emphasised.

**18.** The State of Kerala has placed on record a model of OCIs characterised by structured eligibility based on good conduct and health, equal wages, enhanced parole, extensive opportunities for higher education, diversified vocational training aligned with contemporary skills, spiritual and recreational activities, weekly legal aid visits, and the availability of on-site hospital facilities, thereby reflecting a comprehensive rehabilitative framework.

**C. BPR&D Report: Shortcomings and Recommendations**

**19.** This Court has also been apprised of a detailed empirical study conducted by Dr. Murali Karnam, Professor of Human Rights and Director, Access to Justice Programme, NALSAR University of Law, titled **“A Study of the Functioning and Impact of Open**

**Prisons on Rehabilitation of Prisoners”**, which was submitted to the Bureau of Police Research and Development (BPR&D), Ministry of Home Affairs, Government of India. The study, covering the States of Rajasthan, Kerala, Madhya Pradesh, Himachal Pradesh, West Bengal, Assam and Maharashtra, notes that OCIs constitute only about six per cent of the total prisons across the country. The BPR&D Report, *inter alia*, highlights the following shortcomings in the governance and functioning of OCIs:-

- (i) OCIs are severely under-utilised across States due to stringent rules and criteria for transfer from closed prisons to OCIs. There is no uniformity in the eligibility criteria for transfer from closed prisons, with some States prescribing unduly long periods of incarceration

before an inmate becomes eligible for transfer to an OCI;

- (ii) In several States, either no OCI facilities exist for women, or women prisoners are not eligible for transfer to such institutions;
- (iii) Most OCIs function predominantly as agricultural camps, with work largely confined to farming and allied activities, and in some cases, the OCIs are perceived as hard labour camps, thereby diluting their rehabilitative character; and
- (iv) Educational facilities are often absent, and vocational training remains inadequately diversified and ill-equipped to meet contemporary requirements or to meaningfully empower the prisoners for employability and self-reliance upon release.

**20.** The learned *amicus curiae* has further drawn the attention of this Court to the recommendations contained in the BPR&D Report, which articulate, *inter alia*, the following normative best practices for governance of OCIs: -

- facilitating early transfer of young prisoners to promote reformation, rehabilitation and reintegration into the society;
- limiting prolonged confinement in closed prisons to exceptional cases;
- shifting from agriculture-centric camps to OCIs located in or near urban and industrial centres;
- aligning education and vocational training with market-relevant survival skills;
- basing eligibility for transfer on reformatory character and potential rather than rigid and fixed number of years of incarceration and the gravity of their offences;

- enabling inmates to reside with their families as a bridge to social reintegration; and
- ensuring the availability of well-equipped healthcare facilities within OCIs to avoid traumatic reversion to closed prisons for medical care.

**D. Methodology adopted by the *amicus curiae* regarding data collection in terms of order dated 17<sup>th</sup> May, 2024**

**21.** It has been further stated that pursuant to the directions issued by this Court *vide* order dated 17<sup>th</sup> May, 2024, the learned *amicus curiae*, in consultation with Ms. Rashmi Nandakumar, learned counsel appearing for NALSA, prepared a comprehensive questionnaire for being circulated to all the States and Union Territories. The questionnaire was structured in two parts, namely, one pertaining to **quantitative metrics** and the other to **qualitative aspects**, with the view of obtaining holistic and

evidence-based understanding of the status, capacity, utilisation, and functioning of OCIs including open barracks functioning within closed prisons.

**22.** The detailed chart and questionnaire so prepared were circulated through the State Legal Services Authorities for onward transmission to the Director General, Prisons and Correctional Services in each State and Union Territory. The quantitative component sought specific information regarding the number of OCIs in each State and Union Territory, their sanctioned capacity, present occupancy, distribution of male and female prisoners, and the number of children, if any, residing therein, the responses to which were collated State-wise and compiled into a consolidated chart.<sup>3</sup>

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<sup>3</sup> Quantitative Chart in Convenience Compilation, Volume IV.

**23.** The qualitative component comprised an exhaustive set of 55 questions, segregated under the heads of General functioning, Applicable Rules, Infrastructure and Management, Security Measures, Rehabilitation, Work and Pay, Security Measures, Rehabilitative Measures, and Punishments.<sup>4</sup> It is stated that the questions were designed with precision and granularity to elicit focused information on operational models, eligibility and transfer criteria, applicable statutory frameworks, healthcare and living facilities, work allocation and remuneration practices, security protocols, access to education and vocational training, rehabilitative measures for prisoners and their families, and the nature of disciplinary mechanisms in place, including reversion to closed prisons. The methodology adopted was thus aimed at ensuring

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<sup>4</sup> List of Questions in Convenience Compilation, Volume II.

that the data placed before this Court was not merely descriptive, but capable of facilitating a meaningful comparative and normative assessment of the functioning of OCIs across the country. The responses to the qualitative questionnaire are collated into a comprehensive chart.<sup>5</sup>

### **E. Quantitative Findings**

**24.** The quantitative data received from the States and Union Territories reflects the overall capacity, occupancy and utilisation of OCIs and open barracks across the country. The data reveals significant inter-State disparities and a pervasive trend of under-utilisation, along with a pronounced gender imbalance, with women prisoners being either excluded or grossly under-represented in most States. The major quantitative findings are set out hereinbelow: -

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<sup>5</sup> Qualitative Chart in Convenience Compilation, Volume III.

**OCIs:**

- (i) The quantitative data received from the States and Union Territories reveals that, wherever OCIs are functional, they remain significantly under-utilised. Occupancy rates range from as low as 6% in the open and semi-open prison in the NCT of Delhi; 15% in Himachal Pradesh and Uttarakhand; 20% in Assam; 27% in Uttar Pradesh; 32% in Odisha; 33% in Andhra Pradesh; 36% in Tamil Nadu; 44% in Gujarat; 51% in Punjab, to comparatively higher levels of 63% in Karnataka; 70% in Maharashtra; 79% in West Bengal; 81% in Kerala; and 92% in Rajasthan.
- (ii) An exception to the trend of under-utilisation is found in the State of Bihar, where, though four OCIs exist, only one facility at Buxar is

functional, and the same is overcrowded, with an occupancy of about 136%.

- (iii) The State of Madhya Pradesh did not furnish quantitative data in response to the questionnaire. However, official data available on the website of the Madhya Pradesh Prison Department as of August, 2024 indicates that the State has eight OCIs with a total capacity of 138 inmates, of which 130 are currently housed, reflecting an occupancy rate of approximately 94%.
- (iv) Quantitative information was also not received from the States of Telangana and Haryana.
- (v) The following States have reported a complete absence of OCI facilities: Arunachal Pradesh, Chhattisgarh, Goa, Jharkhand, Manipur, Mizoram, Nagaland and Sikkim. All Union

Territories presently lack OCI facilities, except the NCT of Delhi.

**Open Barracks in Closed Prisons:**

- (vi) With respect to open barracks functioning within closed prisons, under-utilisation is again evident in the State of Tamil Nadu, with an occupancy of only about 20%. Other States reporting open barracks reflect comparatively higher occupancy, i.e., 47% in Himachal Pradesh, and 88% in Bihar, yet these facilities too remain short of full utilisation.
- (vii) In the State of Assam, open barracks are reported in four districts. While the facility at Jorhat is fully occupied, the remaining three districts are overcrowded, resulting in an overall occupancy of approximately 137%. By way of illustration, in Dhubri, 504 inmates are housed against a sanctioned capacity of only 221.

Similarly, open barracks in the State of Maharashtra are also operating beyond capacity, with an occupancy rate of about 171%, whereas comparable facilities in several other States continue to remain under-utilised.

**Access of Women Prisoners to OCIs:**

- (viii) The data overwhelmingly indicates that the representation of women in OCIs is substantially lower than that of men, reflecting either the absence of facilities for women or their exclusion from eligibility for transfer.
- (ix) The States of Assam, Gujarat, Madhya Pradesh, Odisha, Punjab, Telangana, Uttarakhand, Uttar Pradesh and West Bengal have expressly stated that women prisoners are not eligible for transfer to OCIs.
- (x) In the women's OCI at Thiruvananthapuram, Kerala, the occupancy is only about 30%,

whereas the two OCIs accommodating men in the said State, report occupancies of about 82% and 86%, thereby highlighting the disparate under-utilisation of facilities meant for women.

- (xi) The State of Himachal Pradesh has stated that in the absence of open barracks for women, women prisoners continue to be housed only in closed prisons.
- (xii) In the NCT of Delhi, Karnataka and Tamil Nadu, although women are stated to be eligible for transfer to OCIs, the quantitative data reveals that no women have in fact been transferred.
- (xiii) The status of women prisoners in Haryana and Telangana remains unclear owing to non-submission of quantitative data.

#### **F. Qualitative Findings**

**25.** The responses of the States and Union Territories regarding qualitative aspects provide

insight into the manner in which OCIs are administered and experienced in practice. They highlight variations in eligibility norms, living conditions, work, wages, healthcare, education, family integration and disciplinary regimes, and collectively reflect both the rehabilitative promise of OCIs and the systemic constraints that presently limit their transformative potential. The major qualitative findings arising from the responses are set out hereinbelow: -

(i) **Age and Period of Incarceration Prior to**

**Transfer:** The data reveals that prisoners are required to spend anywhere between four to twelve years in closed prisons before being considered for transfer to OCIs, with the period extending up to twenty-one years in Gujarat. The average age of OCI inmates varies widely,

though it predominantly falls between thirty-five to fifty years.

(ii) **Engagement with Society and Nature of**

**Work:** There is significant variation in operational models of the OCIs in different States and Union Territories. While some States, such as West Bengal, permit OCI members to seek employment in the general community with minimal supervision and to live with their families; States like Assam, Haryana, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, and Uttar Pradesh also allow members of OCIs to leave the OCI premises for work, and return at a designated time. On the other hand, States of Andhra Pradesh, Gujarat, Karnataka, Kerala, Odisha, Telangana, Tamil Nadu, and Uttarakhand restrict inmates to

work within the OCI premises, largely in agriculture or allied activities.

- (iii) **Family Life and Social Integration:** Some States<sup>6</sup> do not allow family members to visit members of OCIs. States of Andhra Pradesh, Gujarat, Himachal Pradesh, Karnataka, Odisha, Telangana, Uttar Pradesh and Uttarakhand, and NCT of Delhi prohibit marriage or cohabitation during their tenure in OCI and in most States, families and children are not allowed to reside with OCI members. Exception to the above are States of Assam, Haryana, Madhya Pradesh, Rajasthan, Uttar Pradesh and West Bengal which allow the families and children to reside with OCI members within the facility.

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<sup>6</sup> NCT of Delhi and Himachal Pradesh.

- (iv) **Wages:** Wide disparities exist in wages paid to OCI members, ranging from as low as Rs.40-50/- per day in States of Punjab and Uttar Pradesh for unskilled labour to Rs.230/- in Kerala and up to Rs.548/- in Karnataka, indicating the absence of uniform standards and raising concerns of inequity.
- (v) **Healthcare:** OCIs are generally ill-equipped to provide comprehensive healthcare, with many facilities limited to out-patient clinics and lacking basic medical infrastructure, thereby necessitating reversion to closed prisons or external facilities for treatment, which impinges upon the rehabilitative philosophy underlying OCIs.
- (vi) **Banking Facilities:** Except in Maharashtra, Rajasthan and Uttarakhand, most of the responding States have provided banking

facilities to OCI members, enabling financial inclusion and better management of earnings.

(vii) **Education:** Educational opportunities are available to OCI members in most States, except Haryana, Rajasthan and West Bengal. However, access to education for family members and children of OCI inmates remains limited and uneven across States. For family members of OCI members, educational facilities are only provided in Gujarat, Kerala and Madhya Pradesh and for children of OCI members, educational facilities are provided in Assam, Madhya Pradesh, Maharashtra and Rajasthan.

(viii) **Vocational Training:** While vocational training is provided to OCI members in several States, it remains largely confined to agriculture or traditional trades. A few States offer technical or ITI-type courses. In some States/Union

Territory, including NCT of Delhi, Haryana, Rajasthan and Uttarakhand, such training is lacking.

- (ix) **Disciplinary Measures:** Punishments for violations often include reversion to closed prisons, and in several States, i.e., Gujarat, Himachal Pradesh, Karnataka, Odisha, Tamil Nadu, Telangana, and West Bengal, prisoners are not permitted to return to OCIs thereafter.

## **V. INTERNATIONAL GUIDING PRINCIPLES**

**26.** The international legal and normative framework governing the treatment of prisoners is reflected, *inter alia*, in the United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015, commonly known as the **Nelson Mandela Rules**. These Rules consolidate globally accepted principles and best practices in prison administration and emphasise that they are not intended to prescribe a

rigid model, but to articulate the essential elements of humane, just and effective penal systems. The Nelson Mandela Rules underscore that the legitimacy of incarceration in a modern legal order rests not merely on containment, but on the obligation of State/prison authorities to uphold dignity, fairness and humanity in the treatment of persons deprived of liberty.

**27.** Of particular relevance is **Rule 4**<sup>7</sup>, which recognises that the purposes of imprisonment, namely, protection of society and reduction of recidivism, can be achieved only if the period of incarceration is utilised to facilitate the reintegration

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<sup>7</sup> “**Rule 4:** 1. The purposes of a sentence of imprisonment or similar measures deprivative of a person’s liberty are primarily to protect society against crime and to reduce recidivism. **Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.**

2. **To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature.** All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.”

of prisoners into society, so that upon release they may lead law-abiding and self-supporting lives. To this end, the Rules mandate the provision of education, vocational training, meaningful work and other forms of assistance, including social, moral, spiritual, health and sports-based programmes, tailored to the individual needs of prisoners. **Rule 89**<sup>8</sup> further acknowledges that open prisons, which rely not on physical security but on the self-discipline of inmates, provide conditions most conducive to rehabilitation of carefully selected prisoners. These guiding principles lend authoritative international recognition to the concept underlying OCIs, namely

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<sup>8</sup> **“Rule 89: 1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups.** It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group.

2. These prisons do not need to provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. **Open prisons, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners (.....).”**

that environments characterised by trust, responsibility and opportunity for self-development are central to meaningful rehabilitation and dignified reintegration of the prisoner in the society, and thus provide a normative compass for prison reform in a constitutional democracy.

## **VI. DOMESTIC LEGAL FRAMEWORK** **RELEVANT TO THE ISSUES AT HAND**

### **A. Chapter XXIII of the Model Prison Manual, 2016**

**28.** Chapter XXIII of the Model Prison Manual, 2016, titled “Open Institutions”, provides the domestic normative framework for the establishment and governance of Open and Semi-Open Institutions and embodies the reformatory philosophy underlying modern penology. Paragraph 23.01 declares that such institutions are intended to operationalise the ideology of reformation, correction and rehabilitation

by enabling prisoners to live and work in open conditions so as to restore dignity, self-reliance and social responsibility, while paragraph 23.02 exhorts State Governments to frame detailed rules regarding the administration of Open Work Camps, Semi-open Training Institutions, Open Training Institutions and Open Colonies suited to local conditions. The underlying thrust of these provisions is that open institutions are not merely alternative places of confinement, but are structured environments designed to facilitate gradual transition from custody to responsible citizenship.

**29.** The Chapter prescribes a carefully calibrated framework for selection and transfer of prisoners from closed prisons to OCIs. Paragraphs 23.03 to 23.03.2 provide for exclusion of certain categories of prisoners including but not limited to habitual offenders, dangerous prisoners, prisoners convicted

of serious offences, including terrorism and organised crime, as well as escape risks and foreigners, and those suffering from mental illness, and mandate the constitution of a Selection/Classification Committee to undertake individualised assessment based on conduct, physical and mental fitness, progress in work and training, self-discipline and sense of responsibility. Paragraphs 23.04 to 23.13 envisage a graded progression from semi-open institutions to open training institutions, work camps and open colonies after completion of specified portions of sentence. It further mandates maintenance of minimum standards of accommodation, sanitation, medical care and welfare (para 23.16), meaningful engagement through education, vocational training and character-building programmes (para 23.18), payment of higher wages than in closed prisons (para

23.19), and encouragement of family contact, including periodic stays with family members (paras 23.20 and 23.21). These provisions, read together, reflect a clear statutory commitment within domestic prison jurisprudence to a regime based on trust, responsibility and self-discipline, and furnish the legal foundation for OCIs as instruments of dignity, rehabilitation and social reintegration.

**B. Model Prisons and Correctional Services Act, 2023**

**30.** The reformatory philosophy underlying OCIs also finds recognition in the Model Prisons and Correctional Services Act, 2023, which seeks to modernise prison administration and reorient it towards correction, rehabilitation and social reintegration. Section 2(21) of the said Act defines an “Open Correctional Institution” to mean *“a place for confinement of eligible prisoners on such conditions,*

*as may be prescribed under the rules, for giving them more liberty outside a regular prison for facilitating their rehabilitation after release.”* This definition underscores that OCIs are conceived not merely as alternative custodial spaces, but as institutions designed to confer graduated liberty upon carefully selected prisoners, with rehabilitation after release as their central objective.

**31.** Section 50 of the Act further provides the enabling framework for the establishment and governance of such institutions. Sub-section (1) empowers the Government of the State/Union Territory to establish and maintain as many open and semi-open correctional institutions as may be required; sub-section (2) authorises the grant of such facilities or concessions in these institutions as may assist prisoners in their rehabilitation into society; and sub-section (3) contemplates the framing of rules

to regulate their management, including eligibility for transfer, procedure for such transfer, and the manner of dealing with violations of conditions by prisoners. These provisions, read together, affirm the legislative intent to institutionalise open and semi-open correctional regimes as integral components of a correctional system founded on trust, responsibility and reform, while leaving it to the appropriate Governments to prescribe detailed rules for their effective operationalisation in accordance with local needs and conditions.

**32.** It is significant to note that both the **Model Prison Manual, 2016** and the **Model Prisons and Correctional Services Act, 2023**, have been formulated by the Union of India as guiding normative frameworks to promote uniformity, modernisation and reform-oriented standards in prison administration across the country. However,

under the constitutional scheme, “prisons and persons detained therein” fall within the legislative and executive domain of the States and Union Territories. The effective operationalisation of the reformatory vision embodied in these model instruments, therefore, rests squarely with the States and Union Territories, which are constitutionally obligated to enact appropriate legislation, frame detailed rules and evolve administrative frameworks for prisons situated within their respective jurisdictions. It is only through such translation of model norms into binding statutory regimes and enforceable institutional practices that OCIs can truly evolve and function as instruments of dignity, rehabilitation and social reintegration.

**VII. CONSTITUTIONAL FRAMEWORK: RIGHT  
TO LIFE, DIGNITY OF PRISONERS AND  
REHABILITATIVE JUSTICE IN PRISONS**

**33.** This Court has, over decades, consistently articulated a jurisprudence that views incarceration not merely as punitive deprivation of liberty, but as an opportunity for reformation, rehabilitation and restoration of human dignity. The constitutional vision of penology evolved by this Court situates prison administration within the broader mandate of Article 21, requiring that conditions of confinement be humane and oriented towards the transformation of the individual into a law-abiding and socially responsible citizen. The present inquiry into OCIs is thus firmly anchored in a long line of decisions wherein this Court has emphasised correctional, rather than retributive goals of imprisonment.

**34.** A foundational articulation of prisoners’ rights was made by this Court in *D. Bhuvan Mohan Patnaik v. State of Andhra Pradesh*<sup>9</sup>, wherein it was held that conviction does not denude a person of all fundamental freedoms. The Court clarified that while incarceration necessarily curtails certain liberties incompatible with confinement, a convict continues to enjoy all other fundamental rights, including the sacrosanct guarantee under Article 21. The judgment rejected the notions of “civil death” upon conviction and reaffirmed that constitutional protections continue to govern both the conditions and the manner of imprisonment. In this context, the three-Judge bench of this Court held: -

**“6. Convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess.** A compulsion under the authority of law, following upon a conviction, to live in a prison-house entails by its own force the deprivation of fundamental freedoms like the right to move freely throughout the

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<sup>9</sup> (1975) 3 SCC 185.

territory of India or the right to “practise” a profession. A man of profession would thus stand stripped of his right to hold consultations while serving out his sentence. **But the Constitution guarantees other freedoms like the right to acquire, hold and dispose of property for the exercise of which incarceration can be no impediment, likewise, even a convict is entitled to the precious right guaranteed by Article 21 of the Constitution that he shall not be deprived of his life or personal liberty except according to procedure established by law.”**

[Emphasis supplied]

35. Building upon this constitutional foundation, this Court in *Mohammed Giasuddin v. State of Andhra Pradesh*<sup>10</sup>, expounded the ethical foundations of prison reform, emphasising the need to humanise prison conditions and to infuse the penal system with compassion, self-respect and fraternity. The judgment reflects a jurisprudential shift away from prisons as spaces of suffering towards their conception as institutions of correction, animated by the values of empathy and moral

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<sup>10</sup> (1977) 3 SCC 287.

renewal. It underscored that prison reform is not an act of benevolence, but a constitutional imperative rooted in respect for human dignity. This early articulation laid the normative foundation for viewing prisons as institutions of moral and social regeneration, rather than mere sites of custodial confinement. Relevant extract from the said judgment is reproduced hereinbelow:-

“24. We also think that the appellant has slipped into crime for want of moral fibre. If competent Jail Visitors could organise for him processes which will instil into him a sense of ethics it may help him become a better man. Self-expression and self-realisation have a curative effect. Therefore, any sports and games, artistic activity and/or meditational course, may also reform. We strongly recommend that the appellant be given such opportunities by the jail authorities as will stimulate his creativity and sensitivity. In this connection we may even refer to proven advantages of kindling creative intelligence and normalising inner imbalance, reportedly accomplished by Transcendental Meditation (TM) propagated by Maharshi Mahesh Yogi in many countries in the West. Research projects conducted in various countries bring out that people practising such or like courses change their social behaviour and, reduce their crime-proneness. We do not prescribe anything definite but indicate what the prison doctors may hopefully consider. While it is beyond us to say whether the present facilities inside the

Central Prison, Hyderabad, make it feasible for the appellant to enjoy these benefits and thereby improve his inner being, **we strongly feel that the humanitarian winds must blow into the prison barricades. More than this is expected in this decade, when jail reforms, from abolition of convict's costume and conscript labour to restoration of basic companionship and atmosphere of self-respect and fraternal touch, are on the urgent agenda of the nation. Our prisons should be correctional houses, not cruel iron aching the soul.**

[Emphasis supplied]

36. The reformatory vision was further developed and strengthened in *Dharambir and Anr. v. State of Uttar Pradesh*<sup>11</sup>, wherein this Court underscored that one of the principal purposes of imprisonment is the decriminalisation of the offender and the restoration of dignity, self-esteem and good citizenship. The Court viewed meaningful work, vocational engagement, fair remuneration and sustained family contact not merely as administrative conveniences, but as instruments of

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<sup>11</sup> (1979) 3 SCC 645.

healing and transformation. The emphasis was on replacing inherited harshness with humane processes consistent with the spirit of the Republic, signalling that prisons must reflect constitutional morality as much as any other public institution. Relevant extract from the said judgment is reproduced hereinbelow: -

“2. We, however, notice that the petitioners in this case are in their early twenties. We must naturally give thought to the impact on these two young lives of a life sentence which means languishing in prison for years and years. Such induration of the soul induced by indefinite incarceration hardens the inmates, not softens their responses. **Things as they are, long prison terms do not humanise or habilitate but debase and promote recidivism. A host of other vices, which are unmentionable in a judgment, haunt the long careers of incarceration, especially when young persons are forced into cells in the company of callous convicts who live in sex-starved circumstances.** Therefore, the conscience of the court constrains it to issue appropriate directions which are policy-oriented, as part of the sentencing process, designed to make the life of the sentence inside jail restorative of his crippled psyche. **One of the principal purposes of punitive deprivation of liberty, constitutionally sanctioned, is decriminalisation of the criminal and restoration of his dignity, self-esteem and good citizenship, so that when the man emerges from the forbidding gates he becomes a socially useful individual. From this**

**angle our prisons have to travel long distances to meet the ends of social justice.**

(.....)

**4. We may take advantage of this opportunity to make a general direction to the State Government to draw up a set of rules to reform the pattern of prison life and to transform the present system in itself so that the harsher technologies inherited from imperial times are abandoned in favour of humane processes constitutionally enlivened under the Republic.**

These days, Prison Commissions are at work in many States and we do hope that the State of Uttar Pradesh will hasten to bring compassion into prisons.

5. We are told that the two prisoners are agriculturists by profession. It is better, therefore, that they are put to use as agriculturists, whether within or without the prison compass. Being young, they should also be trained in any other useful craft, if they have aptitude therefore, so that when eventually they emerge from the prison walls, they may become sensitive citizens and not be an addition to the criminals proliferating in the country. **We think that when prisoners are made to work, as these two ought to be under our directions, a small amount by way of wages could be paid and should be paid so that the healing effect on their minds is fully felt. Moreover, proper utilisation of services of prisoners in some meaningful employment, whether as cultivators or as craftsmen or even in creative labour will be good from the society's angle as it reduces the burden on the Public Exchequer and the tension within. Further, the humanising process will be facilitated by keeping the prisoners in contact with their family. This can be made feasible (a) by allowing members of the family to visit the prisoners, and (b) by the prisoners, under**

**guarded conditions, being permitted, at least once a year, to visit their families. (.....)”**

**[Emphasis supplied]**

**37.** The aforesaid principles were given expansive constitutional articulation in ***Francis Coralie Mullin v. Administrator, Union Territory of Delhi***<sup>12</sup>, where this Court authoritatively declared that fundamental rights do not flee the person as he enters the prison gates. The Court gave expansive intent to Article 21, holding that the right to life includes the right to live with human dignity and the bare necessities of life, and that any form of cruel, inhuman or degrading treatment is constitutionally impermissible. The judgment firmly entrenched prisoners’ rights within the heart of constitutional morality and underscored that even within confinement, the State remains bound by standards of reasonableness, fairness and humanity. Relevant

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<sup>12</sup> (1981) 1 SCC 608.

extract from the said judgment is reproduced  
hereinbelow: -

“5. The question which then arises is whether a person preventively detained in a prison has any rights which he can enforce in a court of law. Once his freedom is curtailed by incarceration in a jail, does he have any fundamental rights at all or does he leave them behind, when he enters the prison gate? **The answer to this question is no longer res integra. It has been held by this Court in the two Sunil Batra cases that “fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration”. The prisoner or detenu has all the fundamental rights and other legal rights available to a free person, save those which are incapable of enjoyment by reason of incarceration. (.....)**

8. But the question which arises is whether the right to life is limited only to protection of limb or faculty or does it go further and embrace something more. We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self. **Every act which offends against or impairs human dignity would constitute**

**deprivation pro tanto of this right to live and it would have to be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights. Now obviously, any form of torture or cruel, inhuman or degrading treatment would be offensive to human dignity and constitute an inroad into this right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with procedure prescribed by law, but no law which authorises and no procedure which leads to such torture or cruel, inhuman or degrading treatment can ever stand the test of reasonableness and non-arbitrariness: it would plainly be unconstitutional and void as being violative of Articles 14 and 21.** It would thus be seen that there is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights. **This right to live which is comprehended within the broad connotation of the right to life can concededly be abridged according to procedure established by law and therefore when a person is lawfully imprisoned, this right to live is bound to suffer attenuation to the extent to which it is incapable of enjoyment by reason of incarceration. The prisoner or detenu obviously cannot move about freely by going outside the prison walls nor can he socialise at his free-will with persons outside the jail. But, as part of the right to live with human dignity and therefore as a necessary component of the right to life, he would be entitled to have interviews with the members of his family and friends and no prison regulation or procedure laid down by prison regulation regulating the right to have interviews with the members of the family and friends can be upheld**

**as constitutionally valid under Articles 14 and 21, unless it is reasonable, fair and just.”**

**[Emphasis supplied]**

**38.** The jurisprudence, thus, evolved culminated in explicit judicial recognition of open prisons as a structural instrument of reform in ***Rama Murthy v. State of Karnataka***<sup>13</sup>. In this decision, this Court acknowledged that open-air prisons represent “*one of the most successful applications of the principle of individualization of penalties with a view to social readjustment*”. The Court observed that no managerial difficulty could be considered insurmountable when weighed against the societal good of transforming inmates into reformed persons. The Court went on to exhort that “*more and more open prisons be opened*”, even suggesting their establishment at district headquarters across the

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<sup>13</sup> (1997) 2 SCC 642.

country. This judgment stands as a clear judicial *imprimatur* for establishment of open prisons as a structural response to both rehabilitation and prison management challenges. In a clear articulation of the constitutional vision underlying modern penology, a three-Judge bench of this Court observed: -

**“47. Open-air prisons play an important role in the scheme of reformation of a prisoner which has to be one of the desideratum of prison management. They represent one of the most successful applications of the principle of individualization of penalties with a view to social readjustment as stated by B. Chandra in the Preface to his book titled “Open Air Prisons”. It has been said so because release of offenders on probation, home leave to prisoners, introduction of wage system, release on parole, educational, moral and vocational training of prisoners are some of the features of the open-air prison (camp) system.** Chandra has stated in the concluding portion of Chapter 3 at p. 150 (of 1984 Edn.) that in terms of finances, open institution is far less costly than a closed establishment and the scheme has a further advantage that the Government is able to employ in work, for the benefit of the public at large, the jail population which would have otherwise remained unproductive. According to the author, the monetary returns are positive, and once put into operation, the camps pay for itself.

(.....)

50. Open-air prisons, however, create their own problem which are basically of management. We are, however, sure that these problems are not such which cannot be sorted out. **For the greater good of the society, which consists in seeing that the inmate of a jail comes out, not as a hardened criminal but as a reformed person, no managerial problem is insurmountable. So, let more and more open-air prisons be opened. To start with, this may be done at all the District Headquarters of the country.**

**[Emphasis supplied]**

**39.** Read together, these decisions establish that this Court has long envisaged prisons as institutions of correction, where dignity, self-respect and social reintegration are not aspirational ideals but constitutional necessities. The emphasis on meaningful work, vocational training, payment of wages, humane living conditions, and maintenance of family ties reflects a coherent judicial philosophy that punishment must be tempered by compassion and directed towards reform. Open and semi-open correctional institutions, premised on trust and self-discipline, naturally align with this vision.

**40.** The jurisprudence emerging from these cases also affirms that prison reform is not a matter of executive grace but a constitutional obligation. This Court has repeatedly reminded the State that the manner in which it treats those behind bars is a measure of its commitment to constitutional morality. The transformation of prisons from sites of suffering to spaces of opportunity is thus integral to the promise of justice under the Constitution.

**41.** The present consideration of OCIs must, therefore, be viewed as a continuation of this settled line of precedents and principles. The call for expansion, strengthening and humane governance of OCIs is not novel; it flows directly from the doctrinal foundations laid down by this Court, which have consistently championed individualised treatment, graded liberty, and rehabilitation as central to modern penology.

**42.** The jurisprudence emanating from the aforesaid decisions of this Court, thus, furnishes the constitutional compass for the present inquiry. The consistent emphasis of this Court on dignity, humane treatment, meaningful engagement and graded liberty situates OCIs at the very heart of the reformatory ideal of punishment. It is in the light of these settled principles, and informed by the empirical material and normative frameworks placed before us, that this Court now proceeds to examine the present status of OCIs across the country and to determine the measures necessary to translate the constitutional promise of rehabilitation and social reintegration into effective institutional reality.

### **VIII. ANALYSIS AND CONSIDERATION**

**43.** The empirical data, written submissions and normative frameworks placed before this Court and analysed *supra* manifests that OCIs, though

conceived as living embodiments of reformative justice, their functioning across the country remains fragmented and uneven. The deficiencies revealed are not merely administrative in nature but touch upon the core constitutional guarantees of dignity, equality and rehabilitation under Articles 14, 15, 21, 22 and 39A of the Constitution of India. The patterns of under-utilisation, restricted access and uneven governance of OCIs, thus, compel this Court to look beyond episodic lapses and to reflect upon whether our penal institutions, in their present form, remain faithful to the constitutional promise that ***even those who err are not beyond redemption.***

**44.** The issues which, thus, arise for our consideration may be structured under the following heads, and we shall proceed to examine and answer each of them *ad seriatim*.

**A. Under-utilisation of Existing OCI Facilities and  
Absence of OCIs in Several States and Union  
Territories**

45. The quantitative findings arising from the exercise conducted by the learned *amicus curiae* in pursuance of the order dated 17<sup>th</sup> May, 2024 passed by this Court unmistakably demonstrate that wherever OCIs are functional, they remain substantially under-utilised, even as closed prisons continue to suffer from chronic overcrowding. Further, a number of States and most Union Territories continue to lack any OCI facilities altogether. This situation defeats the very purpose of OCIs, which are conceived as institutional bridges between incarceration and reintegration, and as vital mechanisms for translating the reformatory ideal of punishment into institutional reality.

**46.** We find merit in the submission, that all OCI facilities across all States and Union Territories must be filled to their respective capacities, so as to afford greater opportunity to eligible prisoners for rehabilitation and reformation. The judgments of this Court; the Model Prison Manual, 2016; the Model Prisons and Correctional Services Act, 2023; and the Model Uniform Rules for the Administration of Open Correctional Institutions consistently mandate that such facilities be utilised adequately and progressively to enhance their reformatory potential.

**47.** It is apposite to mention herein that this Court *vide* order dated 8<sup>th</sup> May, 2018<sup>14</sup>, in ***In Re Inhuman Conditions in 1382 Prisons***, while adverting to the issue of open prisons, had noted the submission of the learned Additional Solicitor General that the Model Uniform Rules for the Administration of Open

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<sup>14</sup> (2018) 16 SCC 636.

Correctional Institutions had been finalised and would be circulated to all State Governments for notification and implementation. This Court had also taken note of the submission of the learned *amicus curiae* therein, that despite the existence of open prisons in different parts of the country, their capacities were not being fully utilised. This Court had then expressed its expectation that the States would faithfully and sincerely notify and implement the said Model Rules, utilise the existing capacity of open prisons, augment such capacity wherever necessary, and seriously consider establishing open prisons/OCIs in as many locations as possible. The relevant portion of the said order reads as under: -

“8. It is stated by the learned Additional Solicitor General that steps are being taken to encourage setting up of open prisons. In fact, Model Rules called the Model Uniform Rules for the Administration of Open Correctional Institutions have been framed. As far as the Union of India is concerned, these Rules are final. The learned Additional Solicitor General says that these Model

Rules will be circulated to all the State Governments for notification and implementation. **We expect that on receipt of these Model Rules, necessary steps will be taken by the State Governments to notify and implement these Rules faithfully and sincerely.** It is submitted by the learned Amicus Curiae that there are already 63 open prisons in different parts of the country, but the existing capacity is not being fully utilised. **We expect the State Governments concerned to not only try and utilise the existing capacity of these open prisons and if necessary, increase the existing capacity of these open prisons in due course of time. The State Governments and Union Territory Administrations should also seriously consider the feasibility of establishing open prisons in as many locations as possible.**

[Emphasis supplied]

Regrettably, the material placed before us in the present proceedings demonstrates that, notwithstanding the clear exhortation and expectation recorded by this Court as far back as in 2018, the States and Union Territories have not faithfully complied with the said directions, as under-utilisation continues to plague the system and the establishment of OCIs remains sporadic and uneven across the country, revealing a disquieting gap

between judicial guidance and institutional compliance.

**48.** Reformation, rehabilitation and reintegration must lie at the heart of the criminal justice system. The constitutional guarantee of the right to life under Article 21, as interpreted by this Court, encompasses within its ambit the obligation of the State to facilitate rehabilitation and enable prisoners to lead a life of dignity and normalcy. The proper utilisation of existing capacities of OCIs is therefore essential to fulfil these rehabilitative goals. Continued under-utilisation, despite availability of infrastructure, reflects a systemic indifference to deploy reformative mechanisms and warrants immediate corrective measures.

**B. Exclusion and Under-representation of Women Prisoners from OCIs**

**49.** The material placed before this Court reveals a deeply troubling pattern of exclusion of women prisoners from access to OCIs. The States of Assam, Gujarat, Madhya Pradesh, Odisha, Punjab, Telangana, Uttarakhand, Uttar Pradesh and West Bengal have categorically stated that women are not eligible for transfer to OCIs. Even in States/Union Territory where women are stated to be eligible, such as the NCT of Delhi, Karnataka and Tamil Nadu, the quantitative data shows that no women have, in fact, been transferred to OCIs. In Kerala, while the OCIs accommodating men are occupied at over 80%, the OCI for women at Thiruvananthapuram has an occupancy of merely 30%. In Himachal Pradesh, women continue to be housed only in closed prisons for want of open barracks, and the status in Haryana

and Telangana remains unclear due to non-submission of data.

**50.** This systemic exclusion of women prisoners from having access to the OCIs is plainly contrary to both domestic norms and internationally accepted standards governing prison administration. Chapter XXIII of the Model Prison Manual, 2016, which lays down the framework for OCIs, nowhere excludes women from being eligible for transfer to OCIs, and on the contrary proceeds on the premise that open institutions are to be guided by principles of reformation, dignity and individualised treatment. Internationally, **Rule 2**<sup>15</sup> of the Nelson Mandela

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<sup>15</sup> “**Rule 2:** 1. The present rules shall be applied impartially. **There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.** The religious beliefs and moral precepts of prisoners shall be respected.

2. **In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings.** Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.”

Rules<sup>16</sup> mandates that prison rules shall be applied impartially, without discrimination on grounds of sex or any other status, and further requires prison administrations to take account of the individual needs of prisoners, particularly those belonging to vulnerable categories, and to adopt special measures for protecting and promoting their rights. Non-discrimination under the Rules is thus not a formal guarantee alone, but a substantive obligation to ensure that vulnerable groups, including women, are not excluded from beneficial regimes such as open prisons.

**51.** The obligations and best practices governing gender-responsive prison administration are further underscored in the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, 2010 **(the Bangkok**

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<sup>16</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners.

**Rules). Rule 40<sup>17</sup>** enjoins prison authorities to develop and implement classification methods that address the gender-specific needs and circumstances of women prisoners, so as to ensure appropriate and individualised planning for their early rehabilitation, treatment and reintegration into society. **Rule 45<sup>18</sup>** goes a step further and mandates that options such as home leave, **open prisons**, halfway houses and community-based programmes shall be utilised to the maximum possible extent for women prisoners, to ease their transition from custody to liberty, reduce stigma, and re-establish family and social ties at the earliest stage. These norms leave no room for

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<sup>17</sup> **Rule 40: Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society.**

<sup>18</sup> Rule 45: Prison authorities shall utilize options such as home leave, **open prisons**, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, **to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.**

doubt that denial of OCI access to women prisoners is inconsistent with internationally recognised obligations and best practices governing humane and reformatory prison administration, and cannot be reconciled with the constitutional vision of equality and dignity that animates our criminal jurisprudence.

**52.** It is, therefore, no answer for the State to contend that concerns of security, supervision or management justify the exclusion of women prisoners from access to OCIs. While the State is undoubtedly entitled, and indeed duty-bound, to adopt appropriate safeguards to prevent escape, violence, misuse of liberty or safety issues, such concerns cannot be accepted as a perpetual justification for denying women prisoners the very right to reformation and rehabilitation. The right to reformation, flowing from the guarantee of life and

personal dignity under Article 21, inheres in every prisoner, whether convicted or under-trial. To deny women this right on speculative or generalised security grounds is nothing but an attempt to substitute administrative convenience for constitutional obligation. The State must, therefore, evolve gender-sensitive and security-conscious mechanisms that facilitate and enable, rather than frustrate, women's access to OCIs, for constitutional obligations cannot be made contingent upon institutional convenience.

**53.** The aforesaid constitutional position finds resonance in the jurisprudence of this Court as laid down in ***Vikram Deo Singh Tomar v. State of Bihar***.<sup>19</sup> While dealing with inhuman conditions faced by women inmates of a Care Home in Patna, Bihar, this Court underscored that Article 21

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<sup>19</sup> 1988 SCC OnLine SC 450.

guarantees every person a quality of life consistent with human dignity, and that the Constitution shows particular regard for women as a historically disadvantaged class. The decision reaffirms that the State, in the discharge of its constitutional obligations, is duty-bound to ensure that conditions of confinement do not erode the dignity, self-worth and basic human rights of women, and that custodial institutions must function in a manner that is consistent with substantive equality, humane treatment and the broader constitutional commitment to social justice, observing as follows: -

**“2. India is a welfare State governed by a Constitution which holds the pride of place in the hearts of its citizens. It lays special emphasis on the protection and well being of the weaker sections of society and seeks to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. It shows a particular regard for woman and children, and notwithstanding the pervasive ethos of the doctrine of equality it contemplates special provision being made for them by law.** This is only to be expected when an enlightened constitutional system takes charge of

the political and socio-economic governance of a society, which has for centuries witnessed the relegation of women to a place far below their due. **We live in an age when this Court has demonstrated, while interpreting Article 21 of the Constitution, that every person is entitled to a quality of life consistent with his human personality. The right to live with human dignity is the fundamental right of every Indian citizen. And, so, in the discharge of its responsibilities to the people, the State recognises the need for maintaining establishments for the care of those unfortunates, both women and children, who are the castaways of an imperfect social order and for whom, therefore, of necessity provision must be made for their protection and welfare. Both common humanity and considerations of law and order require the State to do so. To abide by the constitutional standards recognised by well accepted principle, it is incumbent upon the State when assigning women and children to these establishments, euphemistically described as “Care Homes”, to provide at least the minimum conditions ensuring human dignity.** What we see before us in the instant case is a crowded hovel, in which a large number of human beings have been thrown together, compelled to subsist in conditions of animal survival, conditions which blatantly deny their basic humanity. How else shall we describe an establishment where women are detained in miserable conditions, compelling most of them to sleep on broken floors, in damp and dank conditions, with no covering whatever to protect them from the chill wind and near freezing temperatures of the north Indian winter, who are fed a wretched health-denying diet, are denied the basic amenities of convenient toilets and a private bathing place, who, if they complain, are beaten up, and although attacked by disease and illness are unable to find timely medical relief. It is clear that the Welfare Department of the State Government of

Bihar views its responsibilities in regard to these women with a lightness which ill befits its existence and the public funds appropriated to it. The name of “Care Home” given to these establishments is an ironic misnomer. The primitive conditions in which the inmates are compelled to live shock the conscience.”

**[Emphasis supplied]**

Thus, the exclusion of women from OCIs, or failure to transfer them despite being eligible for transfer from closed prisons to OCIs, amounts to blatant gender discrimination, violative of Articles 14 and 15(1) of the Constitution of India, and also infringes upon their right to live with dignity as guaranteed under Article 21.

**54.** It must be noted that Article 15(3) of the Constitution of India enjoins the State to make special provisions for women. This mandate necessarily extends to ensuring access for women to OCIs through integration of existing facilities wherever feasible, timely identification and transfer

of eligible women prisoners, and creation of dedicated facilities for women wherever integration is not possible, so that they are not excluded from the rehabilitative framework of OCIs. The experiences of States such as Rajasthan and Bihar, where integrated OCIs house both men and women, demonstrate that concerns of security or management cannot be treated as insurmountable barriers. Denial of access to OCIs deprives women prisoners of equal opportunity for rehabilitation and cannot be sustained in a constitutional order committed to equality, dignity and the transformative promise of justice. Immediate and effective corrective measures are, therefore, imperative in this regard.

**C. Strict Eligibility Criteria and Inadequate Rehabilitative Avenues within OCIs**

**55.** The qualitative data reveals that stringent and rigid eligibility criteria continue to operate as

substantial barriers to access Open Correctional Institutions. In several States, prisoners are required to spend between four to twelve years in closed prisons before being considered for transfer, with the period extending up to twenty-one years in Gujarat. The average age of OCI inmates predominantly falling between thirty-five to fifty years indicates that access is often delayed to a stage where the reformative and reintegrative potential stands significantly diluted.

**56.** There is also wide divergence in operational models across States. While some States/Union Territory<sup>20</sup> permit OCI members to engage in community-based employment, allowing them to leave the OCI premises during the day for work and return at a designated time, with minimal supervision and to live with their families, other

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<sup>20</sup> Assam, Haryana, Himachal Pradesh, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh, West Bengal and NCT of Delhi.

States<sup>21</sup> restrict inmates largely to work within the confines of OCI premises, predominantly in agriculture or allied activities. Experience, reinforced by reformatory penology, demonstrates that meaningful engagement with the community, access to diversified forms of employment, and exposure to varied vocational opportunities are far more conducive to genuine rehabilitation. Reformation does not take root in isolation; it matures through measured and responsible interaction with the disciplines, expectations and shared obligations of ordinary social life.

**57.** Another disturbing feature is that a large number of OCIs continue to function, in substance, as labour camps, with inmates engaged predominantly in repetitive manual or agricultural

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<sup>21</sup> States of Andhra Pradesh, Gujarat, Karnataka, Kerala, Odisha, Telangana, Tamil Nadu and Uttarakhand.

work, without meaningful avenues for skill development, personal advancement or economic sustenance. Such an approach risks reducing Open Correctional Institutions to functional labour camps, rather than institutions of reformation and reintegration. Reformation cannot be achieved through toil alone; it must be accompanied by structured opportunities that equip prisoners with skills relevant to contemporary social and economic realities. States and Union Territories are, therefore, under a constitutional obligation to develop and implement skill augmentation, vocational education and apprenticeship programmes for OCI inmates, so that the period spent in open conditions becomes a genuine bridge to employability, self-reliance and dignified reintegration into society, consistent with the reformatory ethos of our criminal justice system

and the mandate of Article 21 of the Constitution of India.

**58.** Equally, family life and social integration remain severely constrained in many States. Several States do not permit marriage, cohabitation or residence of family members with OCI inmates, and in most States, families and children are not allowed to reside within OCIs. This erosion of familial ties undermines the rehabilitative purpose of OCIs, as reintegration into society is intrinsically linked with preservation of family bonds. The problem is compounded by wide disparities in wages, rudimentary healthcare facilities, uneven access to education and vocational training, and rigid disciplinary regimes that mandate reversion to closed prisons for slightest aberrations, often without the possibility of return. Collectively, these deficiencies weaken the reformatory potential of OCIs and call for

urgent institutional reform to align their functioning with constitutional principles of dignity, equality and rehabilitation.

**59.** These deficiencies persist despite the existence of a comprehensive normative framework at the national level. The Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023 contain detailed provisions relating to prisoners' healthcare, mental health, education, vocational training, skill development, recreation and social reintegration. These instruments encapsulate contemporary penological thought and give structured expression to the reformatory philosophy consistently endorsed by this Court. Yet, the material on record demonstrates that these standards remain largely unimplemented in practice.

**60.** Regrettably, the material on record also reveals that the spirit and substance of these model

frameworks have not been translated into practice in large parts of the country. While the Union of India has formulated these model instruments as guiding frameworks, the constitutional and legislative competence in respect of “prisons and persons detained therein” vests in the States and Union Territories, which bear the primary responsibility for their adoption and effective implementation. Failure to give effect to these frameworks does not merely reflect administrative apathy, but results in a substantive erosion of the constitutional guarantee under Article 21, which mandates that incarceration shall not extinguish the right to live with dignity or the opportunity for reformation.

**61.** These findings collectively indicate that in many instances OCIs have not fully matured into centres of transformation, but continue to function as marginally relaxed extensions of custodial

confinement. There is, therefore, an urgent need to reorient eligibility criteria towards reformative indicators and to substantially strengthen rehabilitative infrastructure within OCIs, so that they operate as constitutionally compliant institutions of correction, dignity and social reintegration.

**D. Lack of Uniformity and the Need for Common Minimum Standards for Governance and Management of OCIs across States and Union Territories**

**62.** A thorough analysis of the material available on record reveals stark lack of uniformity among States and Union Territories in eligibility norms, duration of prior incarceration, nature of work, wages, healthcare, education, vocational training, family integration, banking access and disciplinary measures governing OCIs. Such divergence results in arbitrariness and unequal access to reformative

opportunities, depending solely upon the State in which a prisoner is confined.

**63.** While the subject of “prisons and persons detained therein” falls within the legislative domain of the States, prisoners across the country are equally entitled to the constitutional guarantees of dignity, equality and rehabilitation. The Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023 reflect an attempt to promote uniform reformatory standards; however, their fragmented and uneven adoption has led to inconsistent outcomes.

**64.** The wide disparities highlighted in the preceding paras underscore the pressing necessity for the formulation of **Common Minimum Standards** governing the administration and management of OCIs. Such standards are essential to ensure baseline uniformity in living conditions,

access to rehabilitative programmes and procedural safeguards, while still allowing States flexibility in implementation.

**65.** In the absence of such standards, the reformative promise of OCIs stands diluted and constitutional guarantees remain unevenly realised across the country. The formulation of Common Minimum Standards is, therefore, imperative to ensure that OCIs across the country function as genuine instruments of rehabilitation, dignity and social reintegration, consistent with the constitutional vision and the settled jurisprudence of this Court. At the same time, we are conscious of the fact that such standards cannot be laid down in a vacuum and must necessarily evolve through a consultative and participatory process involving all relevant stakeholders, so as to balance national uniformity with administrative feasibility. In this

backdrop, the issuance of appropriate and necessary directions becomes imperative to facilitate the development, adoption and effective enforcement of such standards.

**E. Cost-Effectiveness of OCIs *vis-à-vis* Closed Prisons and the Imperative for Expansion**

**66.** A crucial dimension of evaluating the viability and sustainability of OCIs lies in assessing their cost-effectiveness in comparison to conventional closed prisons. In this context, the data emerging from the comparative study<sup>22</sup> of Jaipur Central Jail (closed prison) and Sanganer Open Camp (open prison) in Rajasthan reveals a stark and compelling case for the economic superiority of OCIs. The study indicates that while Jaipur Central Jail houses approximately 2,200 prisoners with a working staff strength of 339,

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<sup>22</sup> Study titled “**The Open Prisons of Rajasthan**” published by Rajasthan State Legal Services Authority.

Sanganer Open Camp accommodates about 400 prisoners with merely 5 staff members. This translates into a prisoner-staff ratio of 6:1 in closed prisons, as against an extraordinary 80:1 in open prisons, underscoring the fundamentally different governance models, with open prisons being premised on self-regulation and minimal custodial supervision.

**67.** From a cost perspective, the disparity is even more pronounced. The total monthly expenditure for the management of Jaipur Central Jail stands at approximately Rs.1.56 crores, whereas Sanganer Open Camp operates at a modest cost of Rs.2 lakhs per month. Consequently, the per capita monthly cost per prisoner is Rs.7,094/- in the closed prison as against merely Rs.500/- in the open prison. On an annual scale, Jaipur Central Jail incurs an expenditure of around Rs.18.72 crores, compared to

only Rs.24 lakhs for Sanganer Open Camp, making closed prisons nearly 78 times more expensive than open prisons. Even staff salary expenditure alone in Jaipur Central Jail is about 60 times higher than that of Sanganer Open Camp, reflecting the recurring heavy fiscal burden imposed by traditional models of custodial.

**68.** A critical factor contributing to this cost efficiency is that prisoners in open prisons are largely self-sustaining. Unlike closed prisons, where the State bears expenses towards food, water, electricity, medical care and other daily necessities, inmates in open prisons earn their livelihood and provide for themselves and often their families. As a result, expenditure heads such as food, utilities, medicines and prisoner wages are virtually immaterial in the budget of open prisons, thereby drastically reducing recurring State expenditure. This model not only

reduces fiscal stress but also promotes financial independence, responsibility and social reintegration among prisoners.

**69.** Additionally, open prisons entail significantly lower infrastructural and capital costs. They do not require large tracts of land, high-security walls, or expensive construction. Minimal housing space, often integrated within agricultural farms or small residential clusters, is sufficient. Several open prisons function within the premises of existing district jails or on adjacent land, eliminating the need for separate high-cost infrastructure. This makes the establishment of new OCIs economically viable even for resource-constrained States.

**70.** We are further informed that in the State of Rajasthan, certain open prisons operate on a model wherein the State provides only the land, and prisoners housed in such facilities construct their

own residential units. This arrangement substantially reduces capital expenditure on infrastructure and further enhances the cost-effectiveness of the open prison model, as it obviates the need for extensive construction, maintenance and security-related outlays ordinarily associated with closed prisons. The practice also reflects a high degree of inmate self-sufficiency and community-based living, which are characteristic features of open correctional systems. At the same time, this Court considers it necessary to clarify that the responsibility for ensuring the availability of basic and dignified living infrastructure to the prisoners unquestionably rests with the State. While innovative and cost-efficient models may be explored, the provision of minimum housing standards consistent with human dignity under Article 21 cannot be abdicated or transferred entirely onto prisoners.

**71.** After reserving judgment, this Court considered it necessary to obtain precise and updated fiscal data so as to objectively assess the comparative cost structures of closed prisons and OCIs. Accordingly, the learned *amicus curiae* was requested to requisition and place on record detailed statistics, particularly from the State of Rajasthan, whose open prison model has repeatedly been cited as illustrative of best practices. Pursuant thereto, a communication dated 10<sup>th</sup> February, 2026 forwarded by the Directorate General of Prisons, Rajasthan (Year 2024-2025) has been placed on record. The data reveals that Rajasthan presently operates 105 closed prisons with an average daily population of 22,476 inmates, incurring a total annual expenditure of Rs.2,73,29,52,888/- (Rupees Two Hundred Seventy Three Crores Twenty Nine Lakhs Fifty Two Thousand Eight Hundred and Eighty Eight only) which

translates to a per-prisoner per-day expenditure of Rs.333.12/-. In contrast, 52 open prisons house an average daily population of 1,285 inmates, with a total annual expenditure of Rs.2,32,76,112/-, resulting in a per-prisoner per-day expenditure of only Rs.49.60/-. This disparity is striking. The statistics further demonstrate that expenditure heads which constitute a substantial recurring burden in closed prisons, such as food and cooking, clothing and bedding, medical treatment, utilities and custodial administration, are either drastically reduced or rendered largely redundant in open prisons owing to their self-sustaining and community-oriented structure. These official statistics, requisitioned specifically for the present proceedings, provide concrete empirical support for the proposition that OCIs are not only aligned with constitutional and reformatory principles, but also

represent a fiscally rational and administratively sustainable correctional model.

**72.** Viewed holistically, the data establishes that OCIs are not merely a humane and rehabilitative alternative but also a financially rational correctional strategy. The massive cost differentials, coupled with benefits such as reduced overcrowding, lower staffing requirements, and enhanced prisoner self-sufficiency, make a strong constitutional and policy case for the systematic expansion of open correctional infrastructure across the country. Investment in OCIs aligns with the principles of efficient governance, fiscal prudence, and transformative justice, ensuring that correctional policy advances both economic sustainability and the rehabilitative objectives of the criminal justice system.

## **IX. OPERATIVE DIRECTIONS**

**73.** In view of the foregoing analysis, and in order to ensure that OCIs across the Country can be made meaningful and effective institutions so as to fulfil the constitutional, reformative and rehabilitative mandate, this Court considers it necessary to issue certain directions. The directions that follow are structured under the respective heads of consideration examined hereinabove, as well as certain ancillary and consequential aspects that are necessary for the effective operationalisation of the reformative framework analysed in detail and represent a concise distillation of the conclusions arrived at in the preceding paras. They are being issued to give concrete and enforceable effect to the constitutional principles, jurisprudential foundations, empirical findings and statutory obligations already discussed, and to secure timely

and uniform implementation of the necessary corrective measures by the Union of India, States and Union Territories, so that OCIs operate as effective instruments of dignity, equality, rehabilitation and social reintegration within the criminal justice system.

**A. Under-utilisation of Existing OCI Facilities and Absence of OCIs in Several States and Union Territories**

- (i) The States of Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Jharkhand, Manipur, Mizoram, Nagaland, Sikkim and Telangana, which presently do not have any functioning OCIs, shall, as a first step, undertake an assessment of the feasibility and necessity for establishing OCIs within their respective jurisdictions. Upon such assessment, the said States shall develop

a protocol for the establishment of OCIs and/or open and semi-open barracks.

- a. The protocol shall, *inter alia*, address issues relating to land allocation, extent of land, infrastructure development, construction, staffing, security arrangements and operational modalities. Where the establishment of standalone OCIs is found to be infeasible for valid and recorded reasons, the concerned States shall be duty-bound to create open and/or semi-open barracks within existing closed prisons situated within their territorial jurisdiction, so as to ensure that prisoners are not denied access to reformatory correctional facilities.
- b. The said protocol shall be placed before the Monitoring Committee constituted in each State

under **Direction F** within a period of **three months** from the date of this judgment.

(ii) Noting that almost all States as well as NCT of Delhi have reported substantial under-utilisation of existing OCI facilities and open barracks within closed prisons, each State as well as NCT of Delhi shall: -

- a. Develop a time-bound protocol for filling up existing vacancies in OCIs and open barracks;
- b. Submit the said protocol before the Monitoring Committee constituted in each State and Union Territory under **Direction F** within a period of **three months** from the date of this judgment; and
- c. Ensure that the identified vacancies are filled within a further period of **two months** thereafter, subject to eligibility and security considerations. The compliance report shall be

placed before the Monitoring Committee constituted under **Direction F**, within **one month** thereafter.

**(iii)** In respect of Union Territories lacking OCI facilities, namely Andaman and Nicobar Islands; Chandigarh; Dadra & Nagar Haveli and Daman & Diu; Jammu and Kashmir; Ladakh; Lakshadweep; and Puducherry, the Union of India/the elected Government of the Union Territory (as the case may be), shall: -

- a. Examine the feasibility of establishing OCIs within the concerned Union Territory or in the alternative, evolve a mechanism for transferring eligible prisoners to appropriate and proximate OCIs in neighbouring States;
- b. In any event, and irrespective of the feasibility of establishing standalone OCIs, the Union of India/the elected Government of the Union

Territory (as the case may be), shall be duty-bound to create open and/or semi-open barracks within existing closed prisons situated within the jurisdiction of the concerned Union Territory, wherever feasible, so as to provide access of reformatory correctional facilities to eligible prisoners; and

c. A status report in this regard shall be submitted before the Monitoring Committee constituted under **Direction F** within **three months**.

**(iv)** The Monitoring Committee constituted under **Direction F** shall be duty-bound to oversee, facilitate and ensure the faithful, effective and timely implementation of the protocols so framed by the States and Union Territories.

**B. Exclusion and Under-representation of Women Prisoners from OCIs**

- (i) All States and Union Territories shall develop a protocol for restructuring existing OCIs and/or open barracks so as to allocate adequate capacity for women prisoners. The protocol shall be submitted before the Monitoring Committee constituted in each State and Union Territory under **Direction F** within **three months** from the date of this judgment.
- (ii) In States/Union Territories where OCIs are already integrated and women are legally permitted to be housed in OCIs or open barracks, the concerned States/Union Territory shall submit before the Monitoring Committee constituted in each State and Union Territory under **Direction F** within one month thereafter, a protocol for identification and timely transfer

of eligible women prisoners, and for filling up existing vacancies earmarked for women.

- (iii)** Wherever integration or cohabitation within existing OCIs is not feasible due to security or other legitimate concerns, the States and Union Territories shall take immediate steps to create suitable and dedicated OCI facilities and open barracks within closed prisons for women, so as to ensure that women prisoners are not denied access to reformatory institutions.
- (iv)** Security concerns shall generally not be made a ground to deny women prisoners access to OCI facilities and open barracks. States/Union Territories are directed to evolve gender-sensitive and security-conscious mechanisms to facilitate such access, consistent with Articles 14, 15 and 21 of the Constitution of India.

- (v) All States and Union Territories shall, within a period of **three months** from the date of this judgment, review and amend, as may be necessary, any existing rules, notifications or executive instructions governing OCIs and open barracks that directly or indirectly exclude women prisoners from eligibility for transfer, and shall place a compliance report before the Monitoring Committee constituted under **Direction F**, within one month thereafter.
- (vi) The Monitoring Committee constituted under **Direction F** shall be duty-bound to oversee, facilitate and ensure the faithful, effective and timely implementation of the protocols so framed by the States and Union Territories.

**C. Strict Eligibility Criteria and Inadequate  
Rehabilitative Avenues within OCIs**

- (i)** All States and Union Territories shall revisit and rationalise eligibility criteria for transfer of prisoners from closed prisons to OCIs, ensuring that such criteria are based primarily on the nature and classification of offences, demonstrated reformatory potential, institutional conduct and readiness for social reintegration, rather than rigid or unduly long periods of incarceration in closed prisons. Individualised assessments shall be undertaken through transparent and reasoned procedure, with recorded justification for acceptance or rejection.
- (ii)** All States and Union Territories shall ensure that OCIs do not function merely as labour camps or spaces of custodial convenience, but

as institutions of structured rehabilitation and transition to liberty. To this end, they shall: -

- a. Adopt and adapt best practices from States such as Maharashtra, Kerala, and Rajasthan, where OCIs have demonstrated effective rehabilitative outcomes, including models of community-based employment, family integration and diversified vocational training.
- b. Develop, implement and periodically update structured skill augmentation, vocational training, apprenticeship and certification programmes, aligned with contemporary employment opportunities;
- c. Facilitate community-based employment and external work opportunities, wherever feasible, with minimal, proportionate and non-intrusive supervision, so as to promote responsibility, trust and social reintegration;

- d. Ensure fair, equitable and non-discriminatory wages, linked to the nature of work and prevailing minimum wage norms. They shall guarantee timely access to healthcare, banking facilities, education, digital literacy and meaningful vocational training within the OCIs;
  - e. Enable access to formal education, distance learning and skill certification, including extensive collaboration with recognised educational institutions, Industrial Training Institutions (ITIs), and industry partners (public/private); and
  - f. Promote family integration and social support systems, including visitation, home leave and, wherever feasible, cohabitation, consistent with security considerations.
- (iii) Disciplinary mechanisms within OCIs shall be reform-oriented and proportionate, and

reversion to closed prisons shall not be employed as a default punitive response, except where strictly warranted.

**(iv)** All States and Union Territories shall put in place institutional grievance redressal mechanisms within OCIs, enabling inmates to raise concerns relating to work conditions, wages, healthcare, discipline or access to facilities, and shall ensure that such grievances are addressed in a timely, fair and transparent manner.

**(v)** All States and Union Territories shall within **three months** from the date of this judgment, undertake necessary amendments, modifications or revisions of the existing rules, regulations, executive instructions or administrative frameworks governing OCIs, as may be required, in order to give full effect to the

directions issued under this head and shall place a compliance report before the Monitoring Committee constituted under **Direction F**, within 1 month thereafter.

- (vi)** All States and Union Territories shall, for the purpose of implementation of **Direction C(ii)**, prepare comprehensive and time-bound action plans, clearly indicating timelines, budgetary allocations, institutional responsibilities and capacity targets. The action plans so prepared shall be placed on record before the Monitoring Committee constituted in each State and Union Territory under **Direction F**, within a period of **three months** from the date of this judgment, which in turn shall ensure faithful, effective and timely implementation of the said action plans.

**D. Lack of Uniformity and the Need for Common Minimum Standards for Governance and Management of OCIs across States and Union Territories**

(i) Recognising the absence of uniformity in governance, eligibility norms, rehabilitative facilities and management of OCIs, and the need for nationally consistent **Common Minimum Standards**, this Court directs the constitution of a **High-Powered Committee for Reform and Governance of Open Correctional Institutions**<sup>23</sup> with the following composition: -

- a. **Executive Chairperson: Hon'ble Mr. Justice S. Ravindra Bhat, Judge (Retd.), Supreme Court of India.**

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<sup>23</sup> Hereinafter, being referred to as the “High-Powered Committee”.

b. **Member Secretary:** Officer/Member of the National Legal Services Authority (NALSA), to be nominated by the Member Secretary, NALSA.

c. **Members:**

- Home Secretary, Union of India (or his nominee not below the rank of Additional Secretary); and
- Home Secretaries of all States and Union Territories (or their nominees not below the rank of Additional Secretary);
- Deputy Inspector General (Correctional Administration), Research and Correctional Administration Division, Bureau of Police Research and Development (BPR&D);
- Joint Secretary, Ministry of Social Justice and Empowerment;
- Joint Secretary, Ministry of Skill Development and Entrepreneurship; and

- Two Directors General of Prisons and Correctional Services from States, to be identified by the Hon'ble Executive Chairperson on a rotational basis.
- (ii) The mandate of the High-Powered Committee shall include: -
- a. Formulation of **Common Minimum Standards** for the governance, administration and management of OCIs, including eligibility criteria, living conditions, wages, healthcare, education, vocational training, family integration and disciplinary safeguards;
  - b. Harmonisation of correctional practices prevailing across States and Union Territories with constitutional mandate, the jurisprudence of this Court, and internationally accepted best practices;

- c. Identification of systemic gaps, inconsistencies and barriers in the existing rules/frameworks governing OCIs across States and Union Territories, and recommending corrective legislative, administrative and policy measures;
- d. Recommendation of **Standardised Eligibility Assessment Protocols** based on the nature and classification of offences, demonstrated reformatory potential, institutional conduct and readiness for social reintegration, rather than rigid or unduly long periods of incarceration in closed prisons;
- e. Formulation of enforceable guidelines to ensure gender-sensitive, inclusive and non-discriminatory access to OCIs, including provisions for women prisoners, transgenders and other vulnerable categories;

- f. Suggesting institutional arrangements for capacity-building and training of prison officials involved in the management of OCIs;
  - g. Recommending mechanisms for periodic monitoring, data collection, evaluation and audit of the functioning of OCIs including capacity utilisation, rehabilitative outcomes and compliance with prescribed standards; and
  - h. Recommending measures to strengthen inter-agency coordination, including between prison departments, legal services authorities, social welfare departments, and skill development agencies.
- (iii)** Administrative and Logistical Arrangements for the High-Powered Committee shall be as follows: -
- a. The High-Powered Committee shall be provided with all necessary secretarial, technical and

administrative support to enable the effective discharge of its mandate. For this purpose, the National Legal Services Authority (NALSA) shall act as the nodal agency and shall designate a suitable officer, to function as the Registrar-cum-Nodal Officer of the High-Powered Committee.

- b. The Registrar-cum-Nodal Officer shall be assisted by such staff as may be required, including at least one Personal Assistant, one administrative assistant, one Law Clerk, and supporting staff, to be deputed by NALSA.
- c. The High-Powered Committee shall be free to conduct its sittings at New Delhi or at such other place or places as may be deemed appropriate by the Hon'ble Executive Chairperson. The concerned State Government or Union Territory, as the case may be, shall

ensure that suitable arrangements for the sittings of the High-Powered Committee are made expeditiously whenever meetings are held outside New Delhi.

- d. The Member Secretary, National Legal Services Authority (NALSA), shall arrange for fully furnished and well-equipped office space for the High-Powered Committee at the NALSA Office, B-Block, Ground Floor, Administrative Buildings Complex, Supreme Court of India, New Delhi – 110001, as and when required. The said office shall be provided with adequate infrastructure, including video-conferencing facilities, secure internet connectivity, record-keeping systems and all necessary logistical support to ensure the efficient and uninterrupted functioning of the High-Powered Committee.

- e. The High-Powered Committee shall be at liberty to evolve its own modalities and procedure for the conduct of its meetings and business, including the manner of consultation with stakeholders, calling for data, and seeking expert assistance, consistent with its mandate.
- f. The Union of India, through the Ministry of Home Affairs, shall bear all financial and logistical requirements of the High-Powered Committee, including expenditure towards office infrastructure, staff support, travel, accommodation, and operational expenses.
- g. The Hon'ble Chairperson of the High-Powered Committee shall be entitled to an honorarium of Rs.10,00,000/- (Rupees Ten Lakh only) per month, along with reimbursement of actual travel and incidental expenses incurred in connection with the discharge of official duties.

Any expert, legal assistance or otherwise, engaged by the High-Powered Committee shall also be paid appropriate honorarium, to be determined by the Hon'ble Executive Chairperson.

h. All logistical and administrative arrangements necessary for the functioning of the High-Powered Committee shall be completed within **two weeks** from the date of the judgment.

**(iv)** The first meeting of the High-Powered Committee shall be convened within a period of **two weeks** from the completion of the aforesaid logistical and administrative arrangements.

**(v)** The High-Powered Committee shall submit a comprehensive report containing its recommendations, along with the draft Common Minimum Standards, before this

Court preferably within a period of **six months** from the date of its first meeting.

**E. Expansion of Open Correctional Infrastructure**

- (i) All States and Union Territories shall, in addition to optimally utilising existing OCIs, take proactive and time-bound steps to expand open correctional infrastructure by **(a)** establishing new OCIs, and **(b)** creating open and semi-open barracks within existing closed prisons, wherever feasible.
- (ii) Each State and Union Territory through its Prisons and Correctional Services Department shall undertake a comprehensive assessment of its prison infrastructure within a period of **three months** from the date of this judgment to: -
  - a. identify locations suitable for the establishment of new OCIs; and

- b. identify closed prisons where open or semi-open barracks can be created without compromising safety or security.
- (iii)** Upon completion of the aforesaid assessment, each State and Union Territory shall prepare separate, time-bound action plans clearly indicating timelines, budgetary provisions and capacity targets for: -
- a. the establishment of new OCIs and/or expansion of existing OCIs; and
  - b. the creation and operationalisation of open and semi-open barracks within closed prisons.
- (iv)** The action plans prepared in this regard shall clearly indicate timelines, budgetary provisions and capacity targets, and shall be placed before the Monitoring Committee constituted in each State and Union Territory under **Direction F**, within a period of **three months** from the date

of this judgment, which in turn shall ensure faithful, effective and timely implementation of the said action plans.

**F. Compliance and Monitoring**

It is evident that the directions issued by this Court vide order dated 8<sup>th</sup> May, 2018 in ***In Re: Inhuman Conditions in 1382 Prisons*** have not, thus far, yielded any meaningful or positive results. In order to ensure that the present judgment does not suffer the same fate, it is imperative to exhort the High Courts to assume an active role in overseeing and ensuring effective implementation of the directions issued herein. With the aforesaid objective in view, we proceed to issue the following directions: -

- (i) For ongoing compliance and monitoring, all the High Courts are directed to register a *suo motu* writ petition, as a continuing mandamus, for the purpose of monitoring compliance with the

present judgment within their respective jurisdictions, particularly with respect to the establishment, functioning and expansion of OCIs.

**(ii)** To facilitate effective implementation at the executive level, every State and Union Territory shall constitute a Monitoring Committee for the Management of OCIs, to be headed by the Executive Chairman of the State Legal Services Authority or his nominee (including a former Judge of the High Court), with the following members: -

- a. Home Secretary of the State/Union Territory (or his nominee not below the rank of Additional Secretary); and
- b. A senior officer of the Prisons Department not below the rank of Deputy Inspector General, to

be nominated by the Home Department of the State or Union Territory.

**(iii)** Where the Chairperson of the Monitoring Committee is a nominee of the Executive Chairman of the State Legal Services Authority, such nominee shall be entitled to appropriate remuneration and logistical support, as may be determined by the Executive Chairman, State Legal Services Authority in consultation with the State Government.

**(iv)** The State Monitoring Committees shall be responsible for: -

- a. Ensuring compliance with the directions issued by this Court;
- b. Overseeing the utilisation, functioning and expansion of OCIs;

- c. Facilitating the timely identification and transfer of eligible prisoners from closed prisons to OCIs; and
  - d. Periodically reviewing progress and addressing systemic impediments in the implementation of the directions issued by this Court.
- (v) Each State and Union Territory shall constitute the aforesaid Committee within a period of **four weeks** from the date of this judgment.
- (vi) The State Committees shall submit status reports to the concerned High Court on regular **quarterly intervals**, detailing the steps taken towards compliance with the directions issued herein, the utilisation and expansion of OCIs, and any difficulties encountered in implementation of the directions issued by this Court. The first such status report shall be

placed on record before the concerned High Court **on or before 21<sup>st</sup> August, 2026.**

**(vii)** The High Courts, through their respective Registrar General, shall compile and forward consolidated report to this Court **once every year**, summarising the compliance status of States and Union Territories, progress achieved, best practices identified, and persistent gaps requiring policy or executive intervention. The first such consolidated annual report shall be placed on record before this Court **on or before 31<sup>st</sup> March, 2027.**

This multi-tiered monitoring mechanism ensures institutional accountability, continuous judicial oversight, and effective translation of constitutional directives into operational outcomes, thereby preventing stagnation in implementation and

reinforcing the transformative objectives of this judgment.

## **X. CONCLUSION**

**74.** The aforesaid directions are issued to ensure that the constitutional mandate of equality, non-discrimination and the right to live with dignity, as guaranteed under Articles 14, 15 and 21 of the Constitution of India, is meaningfully realised in the administration of prisons across the country. They seek to give concrete effect to the philosophy that underlies our criminal justice system and to ensure that OCIs function as effective instruments of rehabilitation, reformation and social reintegration, in accordance with the constitutional vision, the settled jurisprudence of this Court, and the domestic and international normative frameworks governing incarceration.

**75.** Before parting, this Court considers it is apposite to reiterate that the enduring strength of a constitutional democracy lies not in the severity of its punishments, but in its commitment to restore dignity, hope and opportunity even to those who have transgressed the law. Prisoners do not cease to be bearers of constitutional rights upon incarceration, and the State's obligation to treat them with humanity, fairness and compassion stands heightened where liberty is lawfully curtailed. OCIs embody this constitutional promise by recognising that trust, responsibility and graded liberty are essential for meaningful reform.

**76.** The effectiveness of the directions issued herein will ultimately depend upon their faithful and timely implementation by the Union of India, States and Union Territories. The constitutional vision of rehabilitation and reintegration cannot be reduced to

policy declarations or paper compliances. It must find expression in lived realities within prison walls, through inclusive access, humane conditions, gender-sensitive practices, meaningful rehabilitative avenues and uniform minimum standards. It is, therefore, imperative that all stakeholders act with seriousness, sensitivity and a shared sense of constitutional responsibility, so that the reformatory ideal of punishment is not rendered illusory, but stands realised as an enduring and enforceable feature of prison administration in India.

**77.** The Registry shall forward one copy each of this judgment to the following: -

- i. All the High Courts;
- ii. All State Governments and Union Territories through their respective Chief Secretaries;
- iii. Secretary, Ministry of Home Affairs, Government of India;
- iv. Secretary, Ministry of Social Justice and Empowerment, Government of India;
- v. Secretary, Ministry of Law and Justice, Government of India;

- vi. Secretary, Ministry of Women and Child Development, Government of India;
- vii. Director General/Inspector General of Prisons of all States and Union Territories;
- viii. National Legal Services Authority (NALSA);
- ix. Hon'ble Mr. Justice S. Ravindra Bhat, Judge (Retd.), Supreme Court of India; Executive Chairperson of the High-Powered Committee.

**78.** This Court places on record its sincere appreciation for the valuable assistance rendered by learned Senior Advocate, Mr. K. Parameshwar (*amicus curiae*) and learned Senior Advocate, Mr. Vijay Hansaria (*amicus curiae*) as well as Ms. Rashmi Nandakumar, learned counsel appearing for the National Legal Services Authority (NALSA). Their meticulous research, comprehensive written submissions, thoughtful analysis and sustained assistance have significantly aided this Court in the effective adjudication of the complex and multifaceted issues arising in the present proceedings.

**79. List on 1<sup>st</sup> September, 2026** for the consideration of the status report submitted by the High-Powered Committee containing its recommendations and draft Common Minimum Standards.

**80. List on 31<sup>st</sup> March, 2027** for consideration of the consolidated annual reports submitted by the High Courts through their respective Registrars General, in terms of **Direction F(vi) above**, reflecting the compliance status of the States and Union Territories and the progress made in implementation of the present judgment.

.....J.  
(VIKRAM NATH)

.....J.  
(SANDEEP MEHTA)

**NEW DELHI;  
FEBRUARY 26, 2026.**