



ICA Newsletter

INSTITUTE OF CORRECTIONAL ADMINISTRATION, CHANDIGARH

Editorial

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The year 2023 will stand out significantly for major reforms in the criminal justice system, in terms of legislative changes and overhaul. While the exercise has been ongoing for quite some time, it requires vision and commitment to bring about a transformative change. Giving a quick overview of some recent activities in the last few months of 2023. The Heads of prisons from all States and Union territories participated in the eighth National Conference on Prisons and Correctional Services in Visakhapatnam. With the impending introduction of the Model Prisons Act, 2023, there is optimism that correctional administration will herald a brighter future, placing a strong emphasis on rehabilitation and the welfare of inmates.

The nearly 130-years-old colonial Prison Act, 1894 primarily focused on enforcing discipline with no regard for reforming and rehabilitating offenders. Significant changes in the philosophy and practice of sentencing and prisons occurred in the last 130 years, and a new law was essential. Finalised on May 12, 2023, the Model Prisons Act is a step towards revolutionising the prison model in India that has been plagued for decades with issues ranging from overcrowding, and unhygienic living conditions. The Model Prisons Act 2023 can be observed as a rehabilitation and reformatory tool rather than a disciplinary one. This Act aims to improve prison management and has provisions on rehabilitation and reintegration of prisoners. Security assessment and segregation of prisoners; individual sentence planning; grievance redressal; prison development board; use of technology in prison administration; protecting society from criminal activities of hardened criminals and habitual offenders are some of the key features of the Model Prison Act 2023. Provision of separate accommodation for women prisoners, and transgender are some of the other features. Along with The Prisons Act of 1894, the Prisoners Act of 1900 and the Transfer of Prisoners Act, 1950 have also been reviewed by the MHA and relevant provisions of these Acts have been assimilated in the Model Prisons Act, 2023. This document will serve to guide the states and address the gaps in the prison system. This new approach promotes new ways of thinking and behaving for both incarcerated persons and correctional staff.

The Prison Statistics India 2022, report published by the National Crimes Record Bureau, reveals that there were 5,73,220 inmates. The prison occupancy increased from 118% in 2020 to 131% in 2022. The number undertrial inmates continues to be high at 75.7 per cent. With three out of four prisoners being undertrials, the problem of overcrowding of prisons continues to be essentially an undertrial issue.

The Parliament of India has replaced colonial criminal laws through the Bharatiya Nyaya Sanhita Act (BNSS), 2023; the Bharatiya Sakshya Adhiniyam (BSS), 2023; and the Bharatiya Nagarik Suraksha Sanhita (BNSSS), 2023, replacing the Penal Code, 1860, the Evidence Act, 1872, and the Code of Criminal Procedure, 1973 respectively. These laws have got the Presidential assent in December, 2023. All the Stakeholders will require training on these new legislations and the Institute is well prepared to undertake the same.

Dr. Upneet Lalli



Prof (Dr) NishthaJaswal, Vice-Chancellor, Himachal Pradesh National Law University, Shimla taking a Session in Hybrid Mode in the Workshop on 'Temporary Release of Prisoners: Parole, Furlough and Remission' at ICA Chandigarh

Uttarakhand participated in this training programme. Dr.K.P. Singh IPS, Former D.G. Police & Prisons, Haryana was the Chief Guest and Dr. Amit Bhattacharjee, Scientist and Olympian Coach, Chandigarh was the Guest of Honour for the valedictory ceremony. They congratulated the ICA faculty for the successful completion of the course. Dr. K.P. Singh IPS distributed certificates and mementoes to the officers. Extremely useful tips and strategies to manage stress were shared by the experts in this training programme.

Workshop on the Topic "Rights of Transgender Persons" For Prison & Police Officers, 30th October 2023

The workshop aimed to develop sensitivity towards transgender persons and make officers aware of the legal rights of transgender

persons. A total of 14 prison officers from the State of Haryana and Punjab and one police officer from the State of Himachal Pradesh participated in this



Brahma Kumari Preeti taking a Session on the topic 'Stress & Understanding Spiritual Consciousness, Mindfulness' in the "Stress Management" Training Programme

workshop. The key resource person in

the workshop was Mx. Dhananjay Chauhan, Transgender Rights Activist; Sr. Advocate Mx. Swati Bidhan Baruah, Guwahati High Court and Supreme Court of India, Assam; Ms. Navjeet Klair, CJM-Cum-Secretary, District Legal Services Authority, U.T. Chandigarh and Dr. K.P. Singh, IPS, Former D.G. Police & Prison, Haryana who clarified the issues of transgender persons, role of law enforcement agencies in protecting the rights of transgender persons and to provide provisions meant for transgender persons under the law.

Workshop on the theme of "Promoting Mental Health in Prisons" For Prison Officers, on 31st October 2023

The Institute of Correctional Administration organised a workshop



Dr. Upneet Lalli Felicitating Prof. (Dr) Beulah Emmanuel, Professor of Social Work, APCA, Vellore on Study Tour of APCA Trainees to the Institute

on the theme of "Promoting Mental Health in Prisons" for prison officers. A total of 14 prison officers from the State of Haryana and Punjab participated in this workshop. Diverse topics like understanding Mental Issues in Prisons, Common Mental Health Problems and Counselling Interventions in Prisons, Mental Health Act 2017, and Psycho-Social Interventions in Prisons were discussed by Dr. Upneet Lalli; Ms. Ekta Prakash Sharma, Founder, of Humanising Lives, NGO; Adv. Dr. Deipa Singh, Former Advocate General, Punjab & Haryana High Court, Chandigarh and Dr. Aarzoo Gupta, Assistant Professor, Clinical



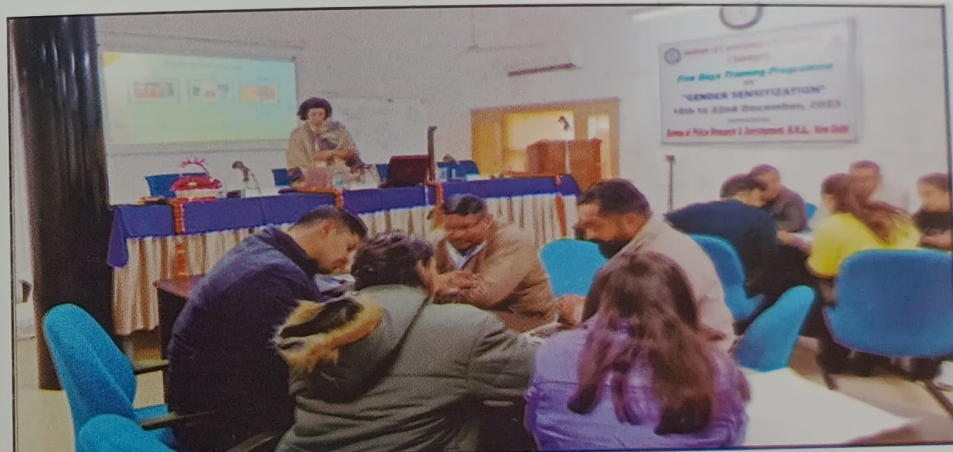
Mr. Dhananjay Chauhan and Dr. K.P. Singh distributing Certificates to the Participants of the workshop on "Rights of Transgender Persons" at ICA, Chandigarh

Psychologist, Government Medical College & Hospital, Chandigarh. All the participants appreciated the knowledge shared by the various resource persons. Dr. Aarzo and Dr. Lalli distributed the certificates to the participants.

Five-Day Training Programme for Prison Officers on "Leadership in Prison Administration" Sponsored by the Bureau of Police Research & Development, (BPR&D), New Delhi, (20th – 24th November 2023)

The main aim of this training programme was to enhance leadership skills in prison officers as per the emerging working environment. 20 prison officers from the States of Haryana, Punjab, Chandigarh, Himachal Pradesh, Uttar Pradesh and Uttarakhand participated in this training programme. Dr. K. P. Singh, IPS, D.G. Police & Prisons (Former), Haryana was the Chief Guest

in the inaugural ceremony. Sh. Roop Kumar Arora, IG Prisons, Punjab was the Chief Guest in the valedictory session. He shared his views on leadership in prisons and

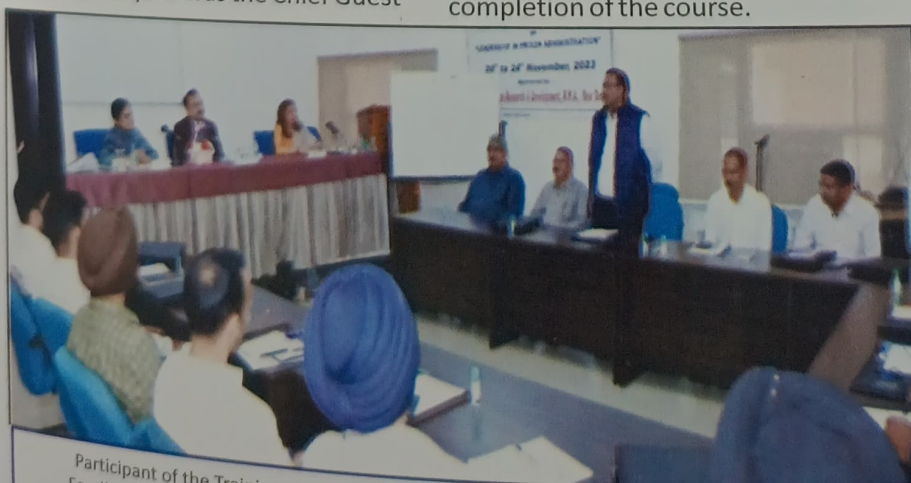


Dr. Rainuka Dagar the Resource Person engaging the Participants of the Course on 'Gender Sensitization' in a group activity

congratulated the ICA faculty and participants for the successful completion of the course.

towards women and may help them adopt a gender-sensitive behaviour which they learnt during this course and improve the prison work environment both for the prison staff as well as for the inmates. The participants appreciated this course and gave highly positive feedback. The course had made a great impact on them. Participants rated almost all the sessions as outstanding or very good.

Two-Day Workshop on 'Nutrition and Kitchen Management' For Model Jail Chandigarh Staff, from 19th – 20th December 2023 at Chandigarh Institute of Hotel Management & Catering Technology (CIHM), Chandigarh



Participant of the Training Programme on "Leadership in Prison Administration" giving Feedback about the Course to the Chief Guest Sh. Roop Kumar Arora, IG Prisons, Punjab

Supreme Court of India Judgment

CRIMINAL ORIGINAL JURISDICTION

B.R. Gaval:J., Vikram Nath; J.,
Sanjay Karoll; J.

Writ Petition (CRL) No. 261 of 2020;
May 3, 2023

Balwant Singh versus
Union of India & ORS

Background Facts

On 31.8.1995, in a bomb blast the then Chief Minister of Punjab Shri Beant Singh, along with 16 others, lost their lives and a dozen others were injured. The present petitioner, along with 8 others, who had hatched a conspiracy and had executed the said bomb blast, were put to trial. The present petitioner was arrested concerning the said incident on 27.01.1996. The Trial Court vide judgment dated 27.07.2007 convicted the petitioner along with co-accused Jagtar Singh Hawara, Gurmeet Singh, Lakhwinder Singh, Shamsheer Singh and Nasib Singh. The petitioner along with co-accused Jagtar Singh Hawarahas been convicted for offences under Sections 120-B, 302, 307 of the Indian Penal Code, 18601 and u/s.3(b), 4(b) and 5(b) r/w 6 of Explosives Substances Act, 1908 and awarded death sentence. In death reference, the High Court vide judgment dated 10.12.2010 confirmed the conviction and sentence of the petitioner. However, while confirming the conviction of the co-accused Jagtar Singh, it commuted the death sentence into life imprisonment. Other co-accused preferred appeal before this Court. However, the present petitioner did not file any appeal after the judgment of the High Court. According to the petitioner, a Mercy Petition was preferred on 25.03.2012. However, according to the respondent Union of India, to date, the petitioner has not preferred any Mercy Petition. It was Shiromani Gurudwara Prabandhak Committee which preferred the aforesaid Mercy Petition on behalf of the petitioner. The grievance of the petitioner, as apparent from the petition is that, as no decision has been taken on his Mercy Petition for more than 10 years, he should be granted the commutation of his death sentence into imprisonment for life.

Law Point: Article 21,32,72,161 of the Constitution of India.

Issues

Shri Mukul Rohtagi, learned senior counsel for the petitioner relied upon a letter dated 27.09.2019 issued by the Ministry of Home Affairs, Government of India addressed to the Chief Secretary, Government of Punjab communicating that 8 Sikh persons be given special remission under Article 161 of the Constitution of India and released from prison and a further proposal for commutation of death sentence to life imprisonment of one prisoner (petitioner) is to be processed under Article 72 of the Constitution of India. Correspondence between different organs of the state concerning the commutation of the death sentence of the petitioner took place. However, to date no decision has been taken. It is under these circumstances that learned senior counsel prayed that as the State and the Union of India have not been able to decide the Mercy Petition which has been pending for more than 10 years, this Court itself may grant that commutation.

On the other hand, learned Additional Solicitor General submitted that the petitioner having expressed in specific terms that he has no faith in the judiciary of this country and that he did not regret at all being part of the crime and further has used contemptuous terms before the High Court which have been duly recorded, he does not deserve any mercy given his conduct. It is further submitted that to date the petitioner himself has not submitted any Mercy Petition. The Mercy Petition dated 25.03.2012 attached with the petition is by the SGPC under Article 72 of the Constitution of India. The communication dated 27.09.2019 by the Ministry of Home Affairs, referred to above, is only a request to the state government to send a proposal for the commutation of the death sentence to life imprisonment under Article 72 of the Constitution of India. It is submitted that once the petitioner has not filed any Mercy Petition himself, there is no question of granting any relief as claimed. Another objection taken was that Criminal Appeals filed by the co-accused are still pending before this Court, as such consideration of any Mercy Petition would arise only after disposal of those appeals.

The writ petition prays that the mercy

petition preferred by the petitioner on 25.03.2012 be taken up for disposal immediately and his death sentence be commuted to imprisonment for life.

Judgement—The Hon'ble S. Court held that it is evident that the argument regarding the pendency of the Mercy Petition and there being a delay of more than 10 years cannot be sustained. Firstly, the petitioner himself never submitted any Mercy Petition. The alleged Mercy Petition of the year 2012 was filed by SGPC. Further, after the communication of the Ministry of Home Affairs dated 27.09.2019, the proposal for considering the commutation of the death sentence of the petitioner was started and a decision was taken to keep the same pending till disposal of the pending appeals before this Court, filed by the co-accused as well as by CBI, as according to the competent authority, it would have a bearing and it could be relevant for taking a final decision on the said proposal of commutation. Further, it was after the directions issued by this Court on 04.12.2020 and 02.05.2022 that the matter was again considered by the competent authority and it was decided to defer the question of commutation given the reasons given in the affidavit filed by the Ministry of Home Affairs. Thus, it cannot be alleged that there has been an inordinate delay in the disposal of the Mercy Petition.

The Court recorded that the three decisions relied upon by Shri Rohtagi in support of his submission regarding inordinate delay in disposal of the Mercy Petition and resultant commutation in such cases having been granted by this Court, did not help the petitioner given the facts and situation being different in those three cases and the present case.

It was held that it would not be within the domain of this Court to delve upon the decision of the competent authority to defer taking of any decision at present. It is within the domain of the executive to take a call on such sensitive issues. As such this Court does not deem it appropriate to issue any further directions. It however, directed that the competent authority, in due course of time, would again as and when it is deemed necessary, deal with the Mercy Petition, and take a further decision.

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