

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C)(PIL) No.21 of 2021

For Court on own motion : Ms. P. Dhar, Amicus Curiae,
For Respondent(s) : Mr. S.S. Dey, Advocate General,
Mr. Ratan Datta, Public Prosecutor,
Mr. D. Bhattacharya, G.A.,
Ms. N.C. Saha, Advocate,

HON'BLE THE CHIEF JUSTICE MR. INDRAJIT MAHANTY
HON'BLE MR. JUSTICE S. TALAPATRA

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19/11/2021

(Indrajit Mahanty, C.J)

Heard learned amicus curiae as well as learned Advocate General appearing for the State-respondents.

The present PIL has been registered on the basis of an article that has been published in the local press where persons suffering from HIV in jails in Assam were reported. On that basis directions were passed to the State and Ms. P. Dhar was appointed as amicus curiae in the matter and she was also directed to carry out inspection of some jails and she has also submitted a report dated 11.11.2021. The same is taken on record. The State has also filed the reply and at page 89 the following has been stated :

Sl. No.	Name of Jails	Number of positive cases as on 08/11/2021	Treatment taken from
1.	Kendriya Sansodhanagar, Bishalgarh (Central Jail & Female Jail)	13 Nos.	ART (Anti Retroviral Therapy) Center AGMC & GBP Hospital, Agartala.
2.	Udaipur	Nil	Nil
3.	Kailashahar District Jail	Nil	Nil
4.	Kanchanpur Sub-Jail	Nil	Nil
5.	Dharmanagar Sub-Jail	Nil	Nil

6.	Longtharaivalley Sub-Jail	Nil	Nil
7.	Kamalpur Sub-Jail	05 Nos.	ART (Anti Retroviral Therapy) Center Kamalpur District Hospital.
8.	Khowai Sub-Jail	Nil	Nil
9.	Sonamura Sub-Jail	Nil	Nil
10.	Amarpur Sub-Jail	Nil	Nil
11.	Gandacherra Sub-Jail	Nil	Nil
12.	Belonia Sub-Jail	Nil	Nil
13.	Sabroom Sub-Jail	Nil	Nil

As on 16.10.2021, a total 13 Nos. HIV positive inmates are found present in the jails of Tripura and out 16, 11 Nos. at Kendriya Sansodhanagar, Tripura, Bishalgarh (all male prisoners) and 02 Nos. at Kamalpur Sub-Jail (All male prisoners). Out of the 13 HIV positive inmates 01 No. was detected during survey conducted by Tripura State Aids Control Society and the remaining were detected during routine medical tests conducted on advice/recommendation of the concerned Medical Officer related to that particular jail. It is to mention here that, after 16.10.2021, 5 UTPs newly detected as HIV positive. So as on 08.11.2021 total number of HIV positive stands to 18.

All detected HIV positive prisoners are closely monitored by the concerned Medical Officer and their medical treatment is provided at the ART (Anti Retroviral Therapy) Center AGMC & GBP Hospital, Agartala for KST patient and at ART (Anti Retroviral Therapy) Center Kamalpur District Hospital for prisoners lodged in Kamalpur Sub-Jail. Diet also provided as per advice of the Medical Officer.

All expenditure related to treatment including diet of the HIV patients are being made by the Home(Jail) Department during their imprisonment.

All precautionary measures are being taken inside jails after detection of HIV positive as like maintaining safety profile inside salon and also maintaining safety profile inside the jails and proper bio medical waste management as per protocol and all other steps recommended/advised by the Medical Officer and the ART Centre.

In addition to this, every year (except 2020), due to corona pandemic situation a survey for detection of HIV infection among the prisoners is being conducted by the Tripura State Aids Control Society. The blood testing for the same is done with the informed consent of the prisoner.

Till date, no death occurred of any HIV infected prisoner, in the jails of this State.”

It appears from the said affidavit that a total number of 18 HIV positive patients (all male prisoners) are in custody and have earlier been identified as HIV positive in course of carrying out tests for coronavirus. It appears that necessary steps have been taken for the

treatment of all such HIV patients in the respective jail premises as noted hereinabove. It would be relevant herein to also take note of the report of the learned amicus curiae and in particular paragraph 4 thereof which reads as under :

“4. That, from the Doctor posted at Kendriya Sansodhanagar, Bishalgarh I have come to learn that amongst the undertrial inmates who have tested positive for HIV a larger segment of them are Intra-venous Drug Users (IDUs). That IDUs and the others on their testing positive for HIV upon entry at the Kendriya Sansodhanagar, Bishalgarh they have been taken for registration under the Anti Retroviral Therapy (ART) at AGMC, Agartala and GBP Hospital, Agartala and have been prescribed and issued medicines from the said therapy which he supervises during their stay in the Kendriya Sansodhanagar, Bishalgarh. That, the chief concerned expressed by the authorities during my visit was the increase in number of IDUs and the fact that in all likelihood without any rehabilitation this IDUs may discontinue their ART medications and return back to their life of addiction.”

In view of the affidavit filed by the State as well as the report of the amicus curiae this Court is satisfied that necessary steps are being taken by the State and the jail authorities for treating HIV patients while they are in custody. We merely take note of the fact and direct that all such treatment that may be required must be continuingly provided to such patients.

Learned amicus has highlighted one of the apprehensions expressed by the convicts having HIV in effect highlighting their concern that there was no likelihood of any rehabilitation for such patients even after their release and consequently apprehend that they would return back to their life of addiction once again.

To a query from the Court as to whether any de-addiction centre exists in the State of Tripura, we are informed that no such de-addiction centre as such exists in the State of Tripura as on date. Consequently, we direct the State to set up a de-addiction centre attached to the AGMC & GBP Hospital, Agartala to deal with substance abuse of all kinds and to provide aid and assistance to addicts in the State of Tripura. The fact that this Court comes across various cases under the Narcotics Act itself is indicative of the reality that number of persons within the State of Tripura are also consumers of such narcotics. Consequently, we are justifying the need for setting up of a de-addiction centre.

The next issue that arises is regarding the responsibility on part of the State to rehabilitate people who have overcome their addiction to ensure that such persons have hope of being accepted within society, properly given reasonable opportunity of earning livelihood and hopefully encouraging them not to revert back to their earlier addictive state. In this respect, this Court suggests to the State that the HIV patients especially those who have turned HIV positive due to addiction and are in custody in various jails may be encouraged to come and speak of their own experiences before young audiences in particular high schools and colleges. We are of the considered view that the experiences of life of

such addicts may assist future generations from understanding the pitfalls and dangers of substance abuse and would have a coming impact on the youth of the State. In other words, if such persons in custody in the jails are willing the State should undertake steps in particular the Department of Education as well to organize seminars, talks where such persons can go and address the youth of this State.

Upon they are released from the jails the issue of their livelihood and/or rehabilitation would arise and we are of the considered view that such persons would be a great asset to the de-addiction centres for the services it provide to substance addicts. So, the State may consider rehabilitating these persons in such de-addiction centres and in any other place that the State may think appropriate where their services would be put to best use depending on their educational background as well as other issues that may arise.

Simultaneously, this Court also appeals to various NGOs and civil society at large to understand that it is not only the State which has the responsibility for the rehabilitation of addicts but also the society at large. Therefore, NGOs and members of civil society who have any interest in participating in the rehabilitation of such addicts should be encouraged to engage them and set the right example for the society. It is brought to our notice by the learned Advocate General about the

existence of a very successful NGO in the State of Meghalaya and we request the State also if necessary to take the services of the said NGO to prepare a plan for setting up of a de-addiction centre and for also making suggestions of creating avenues for livelihood of such rehabilitated drug addicts.

We place on record our gratitude to the learned amicus curiae for having visited the jail and interacted with the patients. Accordingly, we direct the Registry of this Court to pay a sum of Rs.15000/- to the learned amicus curiae for covering the expenses incurred in the matter.

The petition stands disposed of. Copy of this order be supplied to the learned counsel for the respective parties.

(S. TALAPATRA), J

(INDRAJIT MAHANTY), CJ