2010 G B L R 5 0

[Northern Areas Supreme Appellate Court]

Present: Muhammad Nawaz Abbasi, C. J., Syed Jaffar Shah and Muhammad Yaqoob, JJ

In re: SUO MOTU CASE NO. 14 OF 2009

Suo Motu Case No. 14 of 2009, decided on 19th November, 2009.

Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009---

----Art. 61---Original jurisdiction of Supreme Appellate Court---Suo motu powers, exercise of---Conditions of jails---Rights of prisoners---Reports of District and Sessions Judges showed that Jail Administration had no concept of right of prisoners as human beings and controlling authorities in government were also least bothered about problems of prisoners---Non-observance of instructions contained in Jail Manual and Prison Rules, in respect of right and facilities to be provided to prisoners was not only violation of human rights but also was a grave legal and constitutional violation---Prisoners were human beings and subject to law and were entitled to fair and equal treatment in respect of their rights as citizens under the law and Constitution---Supreme Appellate Court, for improvement of poor condition and reformation of Jails issued directions and asked the Home Secretary and Chief Secretary for taking action on Jail reformation on long and short term basis---Supreme Appellate Court also directed District and Sessions Judges and Jail Reforms Committees for implementation of the directions so issued and to submit their reports.

Capt. (R) Usaman Younus, Home Secretary Gilgit-Baltistan.

Sabtain, Deputy Secretary Home, Gilgit-Baltistan.

Deputy Advocate General for Gilgit-Baltistan.

ORDER

In pursuance of the order of this Court learned District and Session Judges in Gilgit Baltistan have submitted reports on the condition of Jails in their respective districts. The Home Secretary, Government of Gilgit Baltistan has also submitted report that in consequence to the order of this court, fetters put on the convicts and under trial prisoners by the jail authorities have been removed and necessary instructions have also been issued for providing the facilities of Medical Officer, construction of bathrooms and establishment of Cafeteria, supply of clothing, bedding and uniform in all Jails on urgent basis. The report further reveals that Deputy Commissioners of all

the Districts holding the charge of Superintendent Jails have been directed for regular visit to Jails and that prisoners are also being provided the facility of education through Allama Iqbal Open University, Islamabad and NGOs.

Capt. (R) Usman Younis, Home Secretary, Gilgit-Baltistan assisted by Mr. Sibtain, Deputy Secretary Home present in person informed the Court that Central Jail Gilgit-Baltistan is under construction in Manowre and this Jail will have all the facilities of a modern Jail.

The XEN B&R Gilgit present in Court has informed us that the construction of Central Jail has already been approved with allocation of funds and work of levelling the ground for construction of building is in progress. According to him contract of building has been awarded and the work order for the construction of project of first phase will be issued within two/three months to the Contractor.

The Home Secretary at this stage has given assurance to the Court that until the Central Jail is constructed the condition of existing Jails in Gilgit-Baltistan will be improved reasonably with the provision of all necessary facilities.

The perusal of reports of the learned District and Sessions Judges would show that even basic needs of life are not available to the prisoners so much so they are not being provided the facility of medical checkup and aid in emergency due to the non-availability of transport and for the same reason the prisoners are not brought to the Courts in time as a result of which delay is caused in their trials.

The Home Secretary has given assurance for providing transport on priority to Jail authorities to avoid delay in the trial of the prisoners and to shift them to hospital for medical aid in case of need.

The reports of learned District and Sessions Judges would also show that Jail administration has no concept of right of prisoners as human being and controlling authorities in the government are also least bothered about the problems of prisoners. The non-observance of the instructions contained in Jail Manual and prison rules in respect of the right and facilities to be provided to prisoners is not only violation of human rights but also is a grave legal and constitutional violation. The prisoners are human being and subject to law are entitled to the fair and equal treatment in respect of their rights as citizens under the law and Constitution.

Consequently for improvement of poor condition and reformation of Jails we direct:-

> (i) The District and Sessions Judges and Deputy Commissioner of all districts in Gilgit-Baltistan will pay regular monthly visit to the Jails and issue necessary instructions in the complaints of the prisoners. The District and Sessions Judge will also ensure that prisoners are provided the basic facilities of life as pointed out in the report of the Home Secretary.

(ii) The trial of under trial prisoners in detention must be conducted on priority to avoid delay and the District and Sessions Judges should ensure that trials on commencement must proceed day to day without grant of unnecessary or long adjournments. The trial of accused under detention should be concluded within two months from the date of submission of Challan.

(iii) The Districts and Sessions Judges will ensure that Challans in the cases are filed within statutory period and in case of delay, the concerned police officials must explain the good reason for delay otherwise face the consequence of appropriate legal action.

(iv) The Inspector General of Police, Government of Gilgit-Baltistan shall issue instructions to all District Police Officers that the Challan must be submitted within the period prescribed under the law and if the above instruction is not strictly followed, he should proceed against the concerned officials for negligence and inefficiency.

(v) The cases of under trial prisoners on bail and Civil Matters may not be given priority over the cases of prisoners in detention.

(vi) The District and Sessions Judges will submit monthly report regarding their visit to the Jail and the progress in criminal trial to the Registrar of Chief Court under intimation to the Registrar of this Court.

(vii) Jail Reforms Committees in each district of Gilgit-Baltistan are constituted under the supervision of District and Sessions Judges which will be headed by President of District Bar Association of each district as Chairman with two members of Bar Association to be nominated by the District and Sessions Judge. The Committee in Gilgit will be headed by the President Chief Court Bar Association and President District Bar Association will be the member of committee. These Committees may visit the Jails alongwith the District and Sessions Judges or independently as the case may be and may send recommendations through District and Sessions Judges to the Home Secretary and Law Secretary along with the complaints of prisoners for reformation under intimation to the Registrar of this Court. The Jail authorities may provide access to the NGOs and Media to meet the prisoners in company of Jail Reforms Committee.

(viii) The construction of Central Jail on completion of ground levelling work must be started forthwith and the Chief Secretary in consultation with Secretary Home and Secretary Works will constitute a Committee for supervision of the work and will ensure that on technical or financial excuse the construction of Jail is not struck up. The Chief Engineer and XEN B&R Division who are present in Court are directed to submit progress report of the project regularly to the Chief Secretary under intimation to the Registrar of this Court.

(ix) This has been noticed that there is no regular Jail establishment in Jail as per requirement of Jail Manual/Jail Rules which are also not being followed by Jail administration in accordance with the spirit of law. The Chief Secretary will take necessary steps for regular establishment of Jail staff/administration and for implementation of Jail Manual/Rules in letter and spirit as a basic requirement for reformation.

This has been noticed that PWD B&R Division in Gilgit-Baltistan usually provides facility of advance money to the Contractors in the name of mobilization advance and Contractors without doing any work unnecessary delay the projects. This practice being against the public interest and exchequer must not be continued in routine or as an essential obligation of department and must be discouraged.

The copy of this order along with the copies of the reports of learned District and Sessions Judges shall be sent to the Home Secretary and Chief Secretary for action on Jail reformation on long and short terms and will also be circulated to the learned District and Sessions Judges and the Jail Reforms Committees for implementation. The learned District and Sessions Judges and Jail Reforms Committees will submit progress report before the next date to be fixed on reopening of the Court after winter vacations in March, 2010.

M.H./45/Glt. Order accordingly.

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