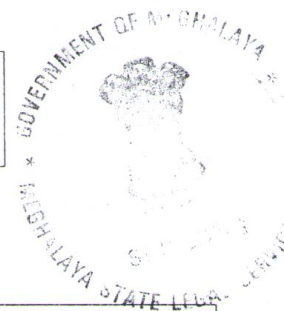


**Minutes of the meeting of the High Powered Committee**

**held on 31-03-2020 at the High Court of Meghalaya**

**Chairperson**

<p><b>Hon'ble Mr. Justice H. S. Thangkhiew , Judge High Court of Meghalaya, Executive Chairman of Meghalaya State Legal Services Authority</b></p>
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**Members Present**

Shri Aldous Mawlong, (IAS)	Commissioner & Secretary, Prison Department, Government of Meghalaya
Shri M. Kharkrang, (IPS)	Inspector General Prison

**Invitee Guests**

Hon'ble Mr Justice W. Diengdoh , Judge High Court of Meghalaya	Chairman of High Court Legal Services Committee
Shri C.V. Darlong Diengdoh, IAS	Secretary, Home Police Department, Government Meghalaya
Smti M.N. Nampui, IAS,	Secretary, Health & Family Welfare Department, Government Meghalaya
Shri E. Kharmalki, IAS	Director of Social Welfare, Government Meghalaya
Director General of Police	None present

**Member Secretary: Meghalaya State Legal Services Authority Shri Noor Ain Khan Convener of the meeting:**

The Chairman ,Hon'ble Mr Justice H.S Thangkhiew, welcomed the members, the invitee guests, and apprised that this meeting of the High Powered Committee had been called on short notice , due to the urgency and exigency of the matter, for implementation of the Order dated 23/3/2020 Passed in *Suo mutto* writ petition(Civil) No.1/2020 ;{ *In Re-Contagion of Corona virus (Covid -19) Vrs in prison*} by the Hon'ble Supreme Court of India

The Hon'ble Chairman informed that The Hon'ble Supreme Court vide the order referred above, has expressed its serious concern on the overcrowding of prisons, in the context of the Pandemic of Corona Virus (Covid -19) and had observed that it has become imperative to ensure that the Corona Virus not spread among the prison inmates and is contained and accordingly directed the States and Union territories to constitute a High Power Committee Comprising of :-



1. The Chairman of State legal Services Committee
2. Principal Secretary Home/Prison
3. Director General of Prison (s)

The High Power Committee shall determine which Class of prisoners can be released on parole or interim bail, for such period as may be thought of appropriate. For instance, the state could consider the release of prisoners who had been convicted or under trial for the offence for which the prescribed punishment is up to seven years or less with or without fine and the prisoners has been convicted for less number of years than the maximum. The Government of Meghalaya Vide notification dated 27<sup>th</sup> March 2020 had constituted the High Powered Committee in compliance thereof with the order of the Hon'ble Supreme Court of India.

The Chair informed that this meeting has been called to carry out the functions of the High Powered Committee as per the mandate and stipulations of the Hon'ble Supreme Court. As it was felt that there are other stakeholders, whose support and aid would enable the Committee to effectively carry out its mandate, they were invited as Guest invitees to this meeting.

The Chairman also informed that pursuant to the order of the Hon'ble Supreme referred above, an emergent meeting had been held on 27-3-2020, with the Inspector General of Prisons, to take stock of the prevailing conditions in the prisons, and the preparedness of the prison department to handle the pandemic of Covid -19, and the steps and initiatives to be taken to decongest the prisons/jails by identifying the prisoners who could be released on bail, interim bail, parole.

That with the permission of the Chair the Agenda was taken for deliberation and resolution:

Item No .1	Steps taken by the Prison Department to prevent spread of COVID-19 in Prison:
	<p>Shri. M. Kharkarng (IPS) Inspector General Prison informed the Chair that there are 5(five) District Jails, in the State of Meghalaya, at Shillong , Jowai, Nongpoh, Tura and Williamnagar and the official cumulative Capacity of the District Jails is 670 and the jail population as on 30-3-2020 stood at 1105. The Inspector General of Prisons informed that the Jail staff and the prisoners are regularly sanitized,</p>

cleanliness of the wards , toilet , bathroom ,kitchen, campus has been given top priority , disinfectants are used frequently . It was also informed that masks and gloves have been supplied , and the visitors are restricted and further group activities of the prisoners has been suspended .

Chairperson suggested that the prisoners should be sensitized about the advantage of maintaining safe distance amongst themselves and "Public Address System" may be installed in the Jail Campus.

Chair assured that all support shall be extended by the State Legal Services to the State Prison Department. Chair apprised that under trial prisoners are not to be produced for hearing and for extension of remands, and that Remand Magistrates have been deputed by the District Judge for doing the needful.

Inspector General prisons further informed that measures like creation of the isolation ward, quarantine of new prisoners, preliminary examination of prisoners for COVID-19 have been put in place.

**Inspector General prison informed that meticulous examination of the prisoners is carried out, and as on date, that there are no inmates with any symptoms of COVID-19 in any of the 5(five) District Jails**

Chair suggested that supply of essential materials to inmates for consumption, and daily use should not be held up. In event of any shortage, immediately steps should be taken up with the District Administration and further **the quarantine for fresh arrestee should be done for at least for 15 ( fifteen) days**

#### **Resolution:1**

The Committee unanimously resolved, that quarantine of fresh entrant and isolation of those of fever / flu should be done for at least 15 (fifteen) days.

That personal visits to the prisoners shall be restricted , they may be permitted to talk to their family members through jail telephone after taking necessary health precaution including sanitation of telephone / Mobile phone.

The Medical Officers and the Doctors, of the Jails shall frequently examine the inmates, and if they find or suspect cases of COVID-19

symptoms in any inmate, the same should be brought to the notice of the Jail Superintendent immediately for taking necessary steps for isolation / treatment of such inmate, at the earliest in term of the guidelines issued by the Ministry of Health Government of India

**Item No. 2 : UTPs that can be released on regular bail or interim bail:**

The Member Secretary (MSLSA) Noor-Ain Khan informed that immediately after passing of the order by the Hon'ble Supreme Court. The Hon'ble Executive Chairman of the Meghalaya State Legal Services Authority Mr. Justice H.S Thangkhiew was pleased to call for an emergent meeting of the Inspector General Prison and the Chairman of High Court Legal Services Committee Mr Justice W. Diengdoh for taking stock of the situation in the Prisons more importantly Shillong Jail which was very overcrowded, and for the implementation of the order of the Hon'ble Supreme Court. Pursuant to the said meeting and in compliance with the order of the Hon'ble Supreme Court, the High Powered Committee was constituted by the Government of Meghalaya vide notification dated 27-3-2020. That on deliberation with the Inspector General Prison it was discerned that District Jail Shillong caters to (3) three Districts i.e East Khasi hills (Shillong), West Khasi Hills( Nongstion), South West Khasi hills (Mawkyrwat), the official capacity of the District Jail Shillong is 170 inmates whereas the Jail Population as on 27-3-2020 was 459 inmates. The District Jail Jowai caters to two Districts namely West and East Jaintia Hills with headquarters at Jowai and Khliehriat respectively. The official capacity of the District Jail Jowai is 130, and the prison Population as on 27-3-2020 was 243, The Prison Population of Shillong District Jail and Jowai District are on the higher side considering their official capacity, as such the Hon'ble Executive Chairman was of the view that more emphasis has to be given to the District Jails at Shillong and Jowai. In the other three (3) District Jails, the Prison population is commensurate with the capacity. The Inspector General Prison had informed that all necessary steps has been taken to check and detect the spread of COVID-19 in all the District

**Jails.**

That pursuant to the meeting held on 27-3-2020 and the information furnished by the Prison Department 174 inmates were identified in the District Jail Shillong, who can be considered for release. The DLSAs of other District were also instructed to identify prisoners who are incarcerated for an offence (s) where maximum punishment prescribed can extend up to 7(seven) years, and by taking aid of the law laid down by the Hon'ble Supreme Court in Arnesh Kumar Vs State of Bihar (2014) 8SCC 273 (para 11) for the purpose of taking further steps in compliance with the order of the Hon'ble Supreme Court.

Chair informed that UTPs involved in serious offence(s) NDPS Act, POCSO Act, NIA, CBI, ED, PC Act, PMLA Act, Acid Attack, Foreign National may be excluded from consideration for release.

**Resolution: 2**

The members of the Committee after discussion and deliberation on the proposed category of prisoners, who may now be considered for the grant of bail, interim bail under the prevailing circumstances, preferably on "Personal Bond" resolved as follows:-

- a) Under trial prisoners who are facing trial or are in Judicial Custody pending investigation, for an alleged offence (s) where the punishment prescribes sentences of 7 years or less.
- b) Prisoners who have been granted bail but could not furnish bail bonds.
- c) Even if the UTP has more than one case and in all other cases, he or she is "on bail" except the one for which he is being considered and the same prescribes punishment for 7 (seven) year or less and if
- d) That in event of any interim bail being granted it shall be for 45 days.

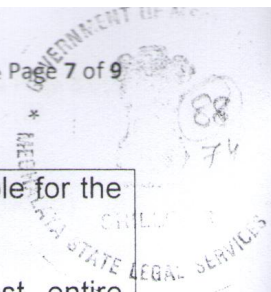
**The following Category of UTPs, even, if falling in the above criterion shall not be considered:-**

- a) All prisoners who are undergoing trial or are in judicial custody pending investigation for intermediary/ commercial quantity recovery under the NDPS Act

- b) Prisoners who are facing trial or are in judicial custody pending investigation under the POCSO Act under section 4 & 6
- c) Those under trial prisoners who are facing trial for offence section 376,376A,376B,376D,376E and Acid Attack
- d) Prisoners who are facing trial under the Prevention of Corruption Act / PMLA
- e) The cases investigated by CBI/Ed/ Special Cell and terror related cases under Anti National Activities and Unlawful Activities ( Prevention) Act
- f) Prisoners who are Foreign Nationals.
- g) Prisoners have criminal antecedents.

*It is made clear that UTP languishing in Judicial Custody pending investigation shall not be deprived of right of statutory bail, irrespective of the nature of offence and punishment, the above criterion will be applicable only for regular bail and interim bail for cases where the punishment prescribed can extend upto 7 (seven) years or less. The above criterion should not be understood as eclipsing the, statutory bail*

Item No .3	<b>- Convicts who can be released on Remission, Parole, Bail:</b>
<p>The Chair suggested to Shri C.V.Darlong Diengdoh, IAS Secretary, Home Police Department, Government Meghalaya that the home department may consider incorporating “ <b>emergency parole</b>” in the line of Delhi Prison Rules which was recently amended on 23-3-2020 to make way for the release of Convicts on parole . In response the secretary informed that the Home Department would examine the Amended Delhi Prison Rules and take necessary steps</p> <p>The Inspector General Prisons informed that there are no applications pending for disposal for parole or any recommendation has come forth, but however states that the matter shall be examined,</p>	



if any of the Convicts can be considered for release on parole for the purpose of decongesting the Jail.

Chair also suggested that convicts who has served almost entire sentence and are left with few months or days for completion, can be considered for remission of sentence by the Government. In response thereto, the Secretary Home conceded to the suggestion.

**Resolution:3**

The members of the committee have discussed and deliberated upon the issue and resolved as follows:

- a) Convicts who have been sentenced for 10 years and have already completed 9 ½ years of including regular remission may be considered for 6 months special remission of sentence by the Home department Government .
- b) Convicts who are sentenced for 7 years or more, but less than 10 years and are left with only 5 months to complete the sentence may be considered for 5 months special remission of sentence.
- c) Convicts who are sentenced for 5 years or more but less than 7 years and left with 4 months to complete the sentence may be considered for 4 months special remission of sentence
- d) Convicts who are sentenced for 3 years or more, but less than 5 years and left with only 3 months to complete the sentence may be considered for 3 months special remission of sentence
- e) Convicts who are sentenced for 1 year or more but less than 3 years and left with only 2 months to complete the sentence may be considered for 2 months special remission of sentence

The home department shall take steps expeditiously for incorporating "Emergency Parole" under the light of discussion above.

<p><b>Item No . 4-</b></p>	<p><b>Preventive steps taken in remand home- Child in conflict with Law and Child in need of Care and Protection can be considered for released:</b></p>
<p>Shri E. Kharmalki, IAS Director of Social Welfare, Government Meghalaya informed that 8(eight ) inmates were released on 30-3-</p>	

2020, and that there are 20 inmates in the Observation home (boys) at Mawkasiang Shillong and in Observation home (boys) Tura there are 5(five) inmates. Further, the Director of Social Welfare Department informed that the Department has issued advisory to all institutions JJB, CWC and others in connection with COVID-19.

Smti M.N. Nampui, IAS, Commissioner & Secretary, Health & Family Welfare Department and Social Welfare Department informed that the Juvenile Homes are not overcrowded and therefore releasing the children who are in conflict with Law may not be necessary, except in exceptional circumstances. All children in Juvenile Homes or Observation Homes are being briefed on the Do's and Dont's,

**Resolution:4**

At the instance of the Chair, it was resolved that the JJBs shall submit reports to the High Powered Committee and also to the State Level Monitoring Team on a regular basis of the preventive steps taken.

<b>Item No.5</b>	Constitution of State Level Committee to monitor the directions issued by the HPC and
<b>Item No 6</b>	Sitting Under Trial Review Committee in the District:

That the Item No 5 and 6 was taken up together with the permission of the Chair

Shri Aldous Mawlong, (IAS) Commissioner & Secretary, Prison Department Government of Meghalaya, informed that State Level monitoring Committee has been constituted vide notification dated 27-3-2020 and UTRC in the districts has been instructed to have a weekly sitting

**Resolution .6 :**

The Committee after deliberation has resolved as follows:-

1. The State Level monitoring committee shall take stock of the matter every fortnight and place a report before the High Powered Committee
2. The Under trial review committee shall have a weekly setting and action taken shall be reported to the concern authority
3. The Committee during the deliberations have taken into



consideration the lockdown situation of the entire nation for 21 days and has accordingly resolved that I.G (prison) will co-ordinate with Nodal Officer of the Meghalaya to Police to ensure safe transportation of the released convicts/UTPs from Jail to their houses in District. In case the released Convict/UTP is resident of any other state then the I. G ( prison shall Co ordinate with concerned S.S.P of the District / State where the released inmate resides , so as to enable that he / she reaches home after the release.

4. That Member Secretary (MSLSA) shall direct all District Legal services Authority in the State to take necessary steps for the release of the prisoners classified in Resolution No 2 ,3.

The Meeting ended with a Vote of thanks.

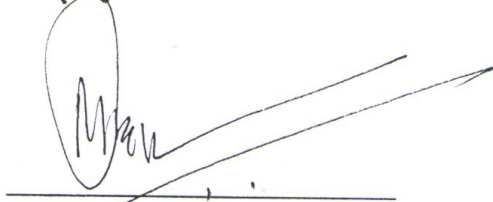
1. Shri Aldous Mawlong, (IAS)  
Commissioner & Secretary, Prison  
Department Government of  
Meghalaya



2. Shri M. Kharkrang, (IPS)  
Inspector General Prison



3. Shri Noor Ain Khan  
Member Secretary  
Meghalaya State  
Legal services Authority



HSS 31/03/2020

Hon'ble Mr. Justice H. S Thangkhiew  
, Judge High Court of Meghalaya ,  
Executive Chairman of Meghalaya State  
Legal Services Authority