

Court No. - 10

Case :- P.I.L. CIVIL No. - 21784 of 2021

Petitioner :- Ashma Izzat

Respondent :- State Of U.P.Thru Addl.Chief Secy./Prisons Reform & Ors.

Counsel for Petitioner :- Piyush Mani Tripathi,Kumai Haider

Counsel for Respondent :- C.S.C.

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Ajai Kumar Srivastava-I,J.

Heard the learned counsel for the petitioner and learned State counsel.

This public interest litigation petition has been filed with the following prayers:-

"(i) issue a writ, order or direction of suitable nature amending the impugned notification dated 13/08/21, bearing no.1424JL/22-03-2021-26/2020 in the interest of the fundamental rights pertaining to inmates imprisoned throughout the state.

(ii) issue, a writ, order or direction in the nature of mandamus directing the respondent No.2 to allow the counsels for the prisoners to meet the prisoners for the purpose to afford required legal help and seek further instructions as the case may be, in absence of any official of the prison as provided by the Act of 1894.

(iii) issue, a writ, order or direction in the nature of mandamus directing the respondent No.3 to make proper arrangements in the form of public interpreters who may assist in communication build up with the disabled inmates."

So far as the challenge to the notification dated 13.08.2021 is concerned, when inquired, learned counsel for the petitioner states that condition No.4 given in the said order curtails not only the right of the jail inmates to have access to legal advice but it also infringes the fundamental right, enshrined under Article 19(1)(g), of a lawyer to profess his profession inasmuch as in case, the RTPCR report is made compulsory, the same may impede his professional rights.

In our considered opinion, condition No.4 contained in the letter/order dated 13.08.2021 has been issued taking into account the extraordinary situation prevailing on account of the present pandemic caused by Covid-19. In fact, the said

guideline has been issued only in view of the present pandemic. We, thus, do not find any offending provision in the said letter/order dated 13.08.2021 including condition No.4.

It has been stated by learned counsel appearing for the petitioner that though the lawyers when visit the jail inmates are given the opportunity of audience, however provisions contained in the Prisons Act, 1894 which provides that the undertrial prisoners may see legal advisers without the presence of any other person, is not being followed.

When the Court inquired as to whether the writ petition discloses any such specific instance, learned counsel for the petitioner states that no such specific instance has been stated in the writ petition, however, it has been stated that when the petitioner, who in this case, is a lawyer intends to visit two jail inmates presently lodged in Lucknow District Jail who are undertrials, she is not able to converse with them for the reason that the undertrials are deaf and dumb and the facility of a sign language interpreter is not being provided.

In these circumstances, this petition is though **dismissed** so far as prayer No.1 is concerned, however we also provide that in case the petitioner makes an appropriate application to the Superintendent/Senior Superintendent of Jail concerned for providing adequate facility to converse with the deaf and dumb jail inmates, same shall be considered by the Superintendent/Senior Superintendent of Jail concerned who shall take appropriate decision thereon in accordance with law, with expedition.

Order Date :- 24.9.2021

cks/-