

BIHAR STATE LEGAL SERVICES AUTHORITY, PATNA

Various directions given by Hon'ble Apex Court, Hon'ble High Court, Statutory Authorities through various judgements and orders as received by BSLSA for a period from July, 2021 till September, 2022:

1. ***Sonadhar v. State of Chhattisgarh, SLP (Crl) No. 529/2021*** - (Pre-mature release of accused persons as per State Policy) The High Court and State Legal Services Authorities to undertake necessary steps in this regard. The endeavour is two-fold - **First**, convicts having undergone more than 10 years imprisonment, unless there are reasons to deny to grant bail, be granted bail. **Second**, Identification of cases where convicts have completed 14 years of custody, in which event, a case can be referred to the government for considering premature release within a fixed time, irrespective of whether appeals are pending or not.
2. ***Khurshed Ahmad v. The State of Uttar Pradesh, S.L.P. (Crl) Diary No (s) – 35524/2019*** – The High Courts of UP, Rajasthan M.P., Patna, Bombay and Orissa shall file affidavits submitting their plan of action for deciding the criminal appeals that have been pending before the High Courts for a long period of time. The High Courts shall, in addition to the figures and data available with them also co-ordinate with the Director General Prisons, in their respective states, to compile data with respect to convicts in jails of those states, who are awaiting hearing of their appeals. While compiling such data, a suitable questionnaire, eliciting information with respect to appeal number, (of such convicts); the provisions under which the prisoners have been convicted; the period(s) of sentence undergone, the age(s) and gender of the prisoner/ convicts, their health conditions which of them are suffering from serious/ illness, shall be obtained. **The State Legal Services Authorities shall assist the DG Prisons, in drawing up suitable questionnaire.**
3. ***Smruti Tukaram Badade v. The State of Maharashtra & Anr. Misc. Application No. 1852 of 2019 in Cr. Appeal No. 1101 of 2019*** (setting up of Vulnerable Witnesses Deposition Centers within ADR Building or Campus) – The High Courts to adopt and notify Vulnerable Witnesses Deposition Centres Scheme in conformity with the guidelines indicated in the order. Every High Court to set up an in-house permanent VWDC Committee for continuously supervising the implementation of the present directions and making a periodical assessment. Every High Court to make an estimation of costs towards manpower and infrastructure required to set up at least one permanent VWDC in every establishment of the District Court. There is a need to conduct periodical training programmes for manning and managing the VWDCs and sensitizing all stake “VWDC” holders. The High Courts to ensure that the VWDC is made available within the premises of the ADR Center so as to secure a safe conducive and barrier free environment for recording the depositions of vulnerable witnesses. **NALSA and SLSA** have a vital stake and role particularly in devising and implementing sensitization and training programmes.
4. ***Gaurav Kumar Bansal v. Union of India & Ors. Misc. Appln. No. 1805/2021 in W.p. (C) No-539/2021*** (Take appropriate steps in the matter to reach out to the persons/beneficiaries through PLVs whose claims for Ex-gratia compensation has not

been made as yet through the concerned district authority under COVID deaths and also to reach out to those whose request for Ex-gratia compensation although made, but has not been paid to them as yet as the Member Secretary would act as Ombudsman and as Facilitator).

5. *Hanif Ur Rahman v. State of Bihar & Ors. Cr. W. J. C. No 160/2021* –

Balika Grih Begusarai shall work out for the rehabilitation of the victim girl and shall take such measures for this purpose as may be required in accordance with law. Some directions were also given to the concerned Trial Court for compliance. Need to sensitize all the stakeholders such as the State through its Chief Secretary, the Home Secretary and the Director General of Police, Bihar as also the judicial officers across the State of Bihar, Bihar State Legal Services Authority and the District Legal Services Authority regarding the pertaining issue and related provisions of J. J. Act, 1956, the POCSO Act whose aim and objects are to protect the child from all kinds of exploitations. Joint meeting of Chief Secretary, Home Secretary and Director General of Police, Bihar must be held.

BSLSA to examine as to what extent the directions issued by the Hon'ble Division Bench of this Court in the case *Apne Aap Women* have been complied with. If the directions issued thereunder have not been acted upon, the BSLSA shall bring it to the notice of Hon'ble the Chief Justice of this Court to consider registering an appropriate proceeding to monitor the implementation of those directions. While examining these issued, it will be open for the SLSA to call upon any of the stakeholders from the State to provide all such information which may be necessary and also to participate in the meeting, if any, held by the SLSA for this purpose.

District Judges in Bihar to organize a workshop in their respective Judgeship with all the Judicial Officers and Members of J.J. Board and the Child Welfare Committee present to discuss the laws on the subject and ensure compliances therewith. Director, BJA to place it before the Hon'ble Governing Body of the Academy to consider incorporating these subjects in the annual programmes of the Academy.

6. *Apne Aap Women Worldwide Trust v. State of Bihar & Ors. C. W. J. C. no. 1882 of 2013* –

Witness protection is vital for effective prosecution of the case. The Anti Human Trafficking Units (AHTUs) in coordination with **District Legal Services Authority** should ensure conducive atmosphere to make it safe for the victims to testify in favour of the prosecution. Family of the trafficked victim should be brought into the purview of social security system. During investigation, trial trafficked victim be allowed the services of Para-Legal Volunteer as also panel lawyer to avoid any harassment, legal expenses by her and for ensuing such services to the victim District Legal Services Authority concerned be alerted about registration of the case no sooner the same is registered by the Police Station as also by the Special Court after receipt of the First Information Report by it.

Directions were also issued to various stakeholders namely Department of Social Welfare, Block and District Level Anti Trafficking Bodies, Department of Education, General Administration Department, Women Development Corporation, Department of Rural and Urban Development, District Magistrate, Superintendent of

Police, IG Prison, Bihar State Legal Services Authorities, District Legal Services Authorities and Bihar Judicial Academy to effectively handle the entire issue of trafficking. Statement under Section 164 of Cr.P.C. of such victim especially if victims are girls, should be taken by a lady Magistrate.

7. *Abhyanand Sharma @ Tinku Sharma v. The State of Bihar, W.P. (Crl.) No. 420 of 2021, and Re: Inhuman condition in 1382 prisons W.P. (C) No. 406/ 2013*

- UTRC to examine the cases of undertrials who:
 - a. Becomes eligible to be released on bail under Section 167 (2) (a) (i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/ 90/ 180 days;
 - b. Are imprisoned for offences which carry a maximum punishment of 2 year;
 - c. Are detained under Chapter VIII of the Criminal Procedure Code i.e. under Sections 107, 108, 109 and 151 of Cr. P.C.;
 - d. Become sick or infirm and requires specialized medical treatment (S. 437 of the Code);
 - e. Women offenders (S. 437 of the Code);
 - f. Are first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable and have suffered atleast 1/4th of the maximum sentence possible;
 - g. Are of unsound mind and must be dealt under Chapter XXV of the Code;
 - h. Are eligible for release under Section 437 (6) of the Code, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of sixty days from the first date fixed for taking evidence in the case.

8. *Kailash Thakkan v. State of Rajasthan, SLP (Cr.) No. 6654/2021 –*

The Hon'ble Supreme Court has been pleased to pass the following directions to ensure good and qualitative assistance in legal aid matters:

- i. As and when any legal assistance either through the panel of Amicus Curiae maintained by the Registry of this Court or through the Supreme Court Legal Services Committee is sought for, complete record of the case in digital form must be sent by the SLSA or the HCLSC.
- ii. Further, the concerned SLSA or the HCLSC must also share other relevant material and documents such as Custody Certificate disclosing the length of custody undergone by the accused.
- iii. The SLSA or HCLSC must thus ensure that the entire material including the record and documents as stated above are shared with the SCLSC or the Amicus Curiae Cell in the Registry of this Court so that adequate representation on behalf of the concerned accused is facilitated.
- iv. Whenever any matters are received from the SLSA or the HCLSC, the Amicus Curiae Cell in the Registry of this Court or the SCLSC must ensure that the digital version of the record is received is shared with the concerned counsel.

9. ***Buddhadev Karmaskar v. The State of West Bengal & others, Cr. Appeal No. 135/2010*** (sensitizing sex workers regarding their rights and rehabilitation, SLISA to assist authorities both in issuance of Identity Card, Aadhar Card and Voter Identity Card, facilitating them in availing the benefits provided to them by the Government and communicating to DLSAs.)
10. Directions dated 01.02.2022 passed in ***SMW (C) No. 6/2021 in RE Children in street situations*** [The Secretary, DLSA be a remote point Coordinator or Chairman of DLSA may appoint the Retired Judicial Officer for recording of the testimony of child witnesses through video conferencing].
11. Order dated 08.02.2022 of National Green Tribunal passed in ***Original Application No. 360 of 2018 (SLP (Civil) No. 2959/2014), Shree Nath Sharma v. Union of India & Ors.*** – (Goal – Environmentally Sustainable Development) Prepare State/ District Environment Plan and revise and update the same periodically as on 31st March every year in respect of all concerned thematic areas. Compliance needs to be monitored at District, State and National level. In addition to regular Monthly meeting, there is a need to hold Annual Conference to be presided over by District Magistrate with the involvement of Educational Institutions, Welfare Associations, Local Bodies including Panchayats, Eco-clubs, other concerned Departments and activist identified by the District Administration and nominees of DLSAs.
12. ***Mahesh Chandra Saxena v. The Chief Secretary, Govt. of NCT of Delhi & Ors.; Original Application No. 147/2021*** – The issue of restoration of water bodies, use of treated water for secondary purposes, installation of RWH systems and control of illegal extraction of groundwater being part of the water management may be dealt with in a holistic manner at the District level, State level as well as National level by the designated authorities for the purpose at periodical intervals and final consolidated reports may be furnished by the CMC to Green Tribunal by e-mail. There is lack of awareness and knowledge of technical knowhow on the subject for which appropriate awareness programmes need to be undertaken urgently with the representatives of the societies online with the involvement of such experts as resource persons, as considered necessary.
13. Direction by Animal Welfare Board of India (AWBI), Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying, Govt. of India – for compliance of ***Hon'ble High Court of Delhi order dated 09.02.2022 in People for the Ethical Treatment of Animals (PETA) India, represented by its Authorised Representative, Dr. Manilal Valliyate Chief Executive Officer v. Union of India, through its Secretary, Ministry of Environment, Forests and Climate Change, Government of India & Ors. WP(C) 4379 of 2020*** with respect to inspection of cancelled circus. – AWBI to conduct on-site inspections and surveys of circuses whose registrations have not been renewed and to report the status with regard to the animals held by each one of them. SLISA to provide assistance in the matter of conduct of survey through their PLVs. Commensurate remuneration be paid to the PLVs for the said purpose which will be determined by the AWBI in consultation with SLISA. Secretary, SLISA may appoint a person to organize the volunteer as well as to provide any other necessary action to

the AWBI. State Govt. may appoint nodal officer to coordinate with the local police and District Magistrate.

14. ***M. C. Mehta v. Union of India & Ors. Original Application No. 200/ 2014 arising out of W.P. No. 3727/ 1985*** – (Subject – Remedying pollution of Ganga, stop discharge of sewage and impart education relating to all aspects of environment) - This matter is being dealt with by National Green Tribunal in pursuance of directions of the Hon'ble Supreme Court vide order dated 29.10.2014, reported in (2015) 12 SCC 764 and a subsequent order in 2017. While passing the directions, the Hon'ble Supreme Court referred to atleast six earlier orders in thirty years and continuance of unsatisfactory state of affairs due to apathy of the statutory authorities. The Tribunal vide order 16.1.2019 in OA 606/2018 requested legal services authorities to create awareness on the subject, subject to directions of NALSA and NALSA vide circular dated 7.5.2019 directed all State legal Services authority to do the needful.

15. **Before the National Green Tribunal, Principal Bench, New Delhi - Order dated 13/09/2022 passed in Original Application No. 545/2022 In re : News item published in The Hindu dated 25.07.2022 titled "Explosion in Bihar illegal firecracker unit kills five".** Subject - (Strengthening monitoring for ensuring compliance of environmental safety norms and preventing industrial accidents resulting into fatalities and injuries) – Direction to Chief Secretary, Bihar to call a meeting (within one month and progress report on the subject may be filed within three months by e-mail at judicial-ngt@gov.in preferable in the form of searchable PDF/ OCR) with all the DM and other statutory regulators to brain storm on the issue and issue appropriate SOP to prevent such incidents in the State. **Create awareness through appropriate IEC activities. Such activities may be undertaken, if viable, along with the Bihar State Legal Services Authority and Education Department.** It may be particularly ensured that explosives are handled in accordance with laid norms and procedures and no un-authorised manufacturing involving explosives takes place.