

**Minutes of the Meeting Dated 12-05-2021 of the High Powered Committee
formed by the Assam Government in compliance of the guidelines of Hon'ble
Supreme Court of India**

Members Present:

- i. Hon'ble Mr Justice N. Kotiswar Singh, Executive Chairman, ASLSA and Judge, Gauhati High Court..... Chairman.
- ii. Mr. M.S. Manivannan, Commissioner and Secretary, Home and Political Department, Assam.....Member
- iii. Mrs B. Sharma, IG(Prison), Assam.....Member

The Meeting of the High Powered Committee was held via Goggle Meet. The Member Secretary, Deputy Secretary of ASLSA and DIG of Prison, Assam were also present in the meeting through video conferencing.

In compliance of the direction of Hon'ble Supreme Court given in **SUO MOTU WRIT PETITION (C) NO. 1/2020** (order dated 23-03-2020) IN RE : CONTAGION OF COVID 19 VIRUS IN PRISON the HIGH POWERED COMMITTEE was formed in the State of Assam last year.

Hon'ble Supreme Court vide Order Dated 07-05-2021 in SUO MOTU WRIT PETITION (C) NO. 01/2020 IN RE: CONTAGION OF COVID 19 VIRUS IN PRISON observed that "....rapid proliferation of the virus amongst the inmates of the congested prisons is a matter of serious concern. The High Powered Committees constituted by the State Governments/Union Territories shall consider release of prisoners by adopting the guidelines (such as inter alia, SOP laid down by NALSA) followed by them last year, at the earliest."

The High Powered Committee in pursuance to the directions of the Hon'ble Supreme Court as mentioned hereinbefore was once again convened and discussed the issues at length under the Chairmanship of Hon'ble Mr Justice N Kotiswar Singh, Judge, Gauhati High Court and Executive Chairman, Assam State Legal Services Authority, Guwahati.

directly to Assam State Disaster Management Authority.

The meeting discussed the subject relating to contagion of Covid virus inside the jail during the present second wave of Covid. Hon'ble Mr Justice N Kotiswar Singh impressed upon the members of the Committee that in compliance of the directions given by Hon'ble Supreme Court, High Powered Committee needs to take immediate actions for releasing all the inmates forthwith, who had been released earlier pursuant to order 23.03.2020 passed by Hon'ble Supreme Court, by imposing appropriate conditions. Further the inmates who were granted parole, pursuant to the earlier orders of Hon'ble Supreme Court, should be again granted parole for another period of 90 days in order to tide over the pandemic.

After threadbare discussion on the subject, the meeting resolved thus:

IMMEDIATE STEPS TO BE TAKEN

- I. The I.G (Prison) stated that in pursuant to the previous order of Hon'ble Supreme Court, 15 out of 22 approved inmates were allowed to go on parole. Hence, keeping in view the fresh directions passed by the Hon'ble Supreme Court on 07-05-2021, said 22 inmates can again be allowed to go on parole for another period of 90 days so as to tide over the pandemic. The Home department will issue necessary directions in this regard.
- II. It was further resolved that I.G (Prison) will look into the list of jail inmates who were released in pursuance to the earlier order dated 23-03-2020 passed by Hon'ble Supreme Court and issue necessary instructions for their release again, with appropriate conditions.
- III. The High Powered Committee also resolved that UTRC of each district would be in better position to look into the feasibility of release of inmates and to put appropriate conditions on such release, in pursuance to the guidelines already in force, considering the local situation in the respective districts. Therefore, it was resolved that the UTRC would collect the list of the inmates from the jails in the districts who are eligible to be released (reportedly prepared) and hold a meeting within 3 days. The UTRC will furnish the recommendations to the HPC immediately after the meeting.
- IV. The members of the High Powered Committee again resolved that the district administration would ensure that one doctor/team of doctors visit the jail daily to meet the medical needs of the inmates of the jail. The Home Commissioner will take the call.

ADDITIONAL STEPS:

The High Powered Committee members upon deliberation of different aspects resolved further as follows:

MEDICAL NEEDS

- i. In the meeting, the IG (Prison) mentioned that till date vaccination of inmates

directly to Assam State Disaster Management Authority.

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- has been started in ten jails only. It is resolved that the Home Department shall issue necessary instructions to the concerned authorities to vaccinate the inmates of other jails also immediately and will expedite such vaccination drive.
- ii. Further, jail authorities will take necessary steps for the antigen test/RT PCR test for the jail inmates.
 - iii. Separate quarantine and isolation space be made available to keep the new inmates and asymptomatic inmates respectively so as to contain spreading of the virus.
 - iv. The inmates will be provided immediately with N95Mask, Sanitizers and other essentials. In this regard the Secretary, Home Department stated that SDRM (State Disaster Response Mechanism) Fund is available for meeting such needs of the inmates, which the Jail authorities can utilize. The Jail authorities will accordingly do needful.
 - v. The Home Department will also issue necessary notifications for ear marking of the beds and ICUs in the Civil Hospitals and GMCH for the jail inmates.
 - vi. The jail authorities will provide a printed copy of the vaccination certificate to the jail inmates so as to ensure that the inmate can take the second dose on furnishing the same to nearby facility providing vaccination, in the event of being released from the jail after the first dose.
 - vii. The district administration in collaboration with the health department to ensure that atleast two oxygen cylinders are available in the jail for meeting any emergency which may arise inside the jail.

WAY FORWARD

- The Committee members further resolved that considering the present pandemic scenario which is very grave, the Home Secretary would apprise the Committee members as regard the various additional steps which could be taken up by the district administration for the jail inmates who were not released on bail but may test +ve and require hospitalization, in the next meeting.
- Also it was discussed that the UTRC members might also provide suggestions, if any, for additional steps which could be taken up at the State and district level, in the wake of the present pandemic.
- The judgment passed by Hon'ble Supreme Court in Arnesh Kumar Vs State of Bihar be circulated via email/WT message to all the police stations of the State so as to ensure adherence of the directions made. The said judgment also be circulated to the remand Magistrates for its strict compliance.
- The Member Secretary, ASLSA stressed on the point that to avoid spreading of the infection in the jails, special care of the accused who are produced for the first time before Magistrate seeking custody be made. It was suggested that at least two Covid testing points in each district specially for such accused may be set up by the district administration and before the accused are produced before the Court, they may be tested at such centres. That only the ones who tested negative be forwarded to the court or jail as per law and kept in

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quarantine area. The ones who tested +ve be provided with the required medical help and not sent to jail. Only after the such accused tested negative, they may be forwarded to the jail, as per law.

- It was further discussed that to ensure that the communication of the inmates with the family members, Counsels, etc, virtual mode keeping all the Security parameters at place be applied. For those who cannot afford smart phones and like devices, they can approach DLSA, Secretary who can then make adequate arrangements for the purpose.
- The members of the High Powered Committee also resolved that in compliance of the directions of the Hon'ble Supreme Court passed in order dated 07-05-2021, all the decisions of the High Powered Committee be published on State Legal Services Authorities/State Government/ High Court's websites in order for effective dissemination of information.
- The Members have decided to sit again on 16-05-2021. The meeting concluded with thanks from the Chair.

GOVERNMENT OF ASSAM
HOME(B) DEPARTMENT
2nd Floor, CM's Block, Janata Bhanwan, Dispur, Guwahati-06

No.HMB-89/2020/221

Dated Dispur, the 13th May, 2021

From : Shri M.S. Manivannan, IAS,
Commissioner & Secretary to the Govt. of Assam,
Home & Political Department,
Dispur, Guwahati-06

To : 1. The Commissioner of Police, Guwahati-01.
2. The Superintendent of Police of all districts.

Sub: Contagion of COVID-19 virus in prisons The orders of Hon'ble Supreme Court of India, Instructions to be issued for compliance –Reg.

Sir,

With reference to the subject above, I am directed to inform you that as per the decision taken in the high powered committee constituted by the Hon'ble Supreme Court of India held on today and as directed by the hon'ble chairman of the high powered committee, you are requested to issue instructions to the Officers in-charge of all the police stations in your jurisdiction to strictly comply with the orders passed by the Hon'ble Supreme Court of India. In para 9 of the judgment issued in Suo Moto Writ Petition (C) No. 1/2020 which says,

“As the first measure, this Court, being the sentinel on the qui vive of the fundamental rights, needs to strictly control and limit the authorities from arresting accused in contravention of guidelines laid down by this court in Arunesh Kumar v. State of Bihar (Supra) during pandemic. It may be relevant to quote the same:

11. Our endeavor in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1) (b) (ii);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

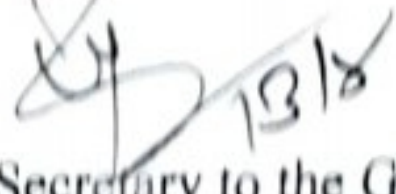
11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine."

Report of compliance shall be submitted to this department within two days.

Yours faithfully,



Commissioner & Secretary to the Govt. of Assam,
Home & Political Department

Memo No.HMB-89/2020/221-A

Dated Dispur, the 13th May, 2021

Copy for kind information to:

1. The Chairman of the High Power Committee- Cum- Chairman State Legal Service Authority, Assam, Guwahati-01.
2. The Director General of Police, Assam Police Headquarters, Ulubari, Guwahati-07.
3. The Deputy Commissioner of all districts.
4. SO to the Chief Secretary to the Govt. of Assam, Dispur, Guwahati-06.
5. The Inspector General of Prisons, Khanapar, Guwahati-22.
6. PS to Principal Secretary to the Govt. of Assam, Home & Political Department, Dispur, Guwahati-06.


Commissioner & Secretary to the Govt. of Assam,
Home & Political Department.

o/c

222

GOVERNMENT OF ASSAM
HOME (B) DEPARTMENT
2nd Floor, CM's Block, Janata Bhanwan, Dispur, Guwahati-06

No.HMB-89/2020/222

Dated Dispur, the 13th May, 2021

From : Shri M.S. Manivannan, IAS,
Commissioner & Secretary to the Govt. of Assam,
Home & Political Department
Dispur, Guwahati-06

To : 1. The Commissioner of Police,
Panbazar, Guwahati-01,
2. Deputy Commissioner of all districts.
3. Inspector General of Prisons, Assam,
Khanapara, Guwahati-22.
4. Superintendent of Police of all Districts.

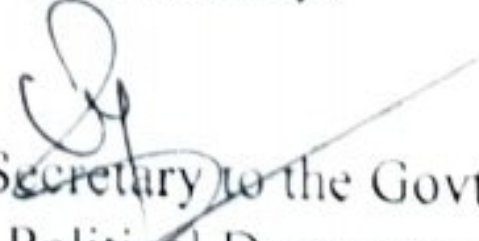
Sub: Guidelines for transportation of prisoners during COVID Pandemic.

Sir/Madam,

In the context of prisoner escort following guidelines should be followed by all the districts for containment of COVID-19 Pandemic in Assam.

1. The prison authorities will ensure checking of temperatures/ symptoms of COVID-19 before sending the prisoners.
2. The prisoners should also be provided with N95 mask preferably before entering the prisoners van. In case, someone has symptoms, a report may be sent to the court immediately citing the medical condition and seek further direction from Courts.
3. The glasses of the windows of the prisoners van should be open for cross ventilation.
4. Proper spacing should be maintained in the van. If required, the respective district should arrange two prisoner vans in the present scenario.
5. At least one of the police personnel in the van should preferably wear PPE kit and should invariably put shield and gloves while coming near/ touching the prisoners.
6. This personnel in PPE kit may be in proximity of the prisoners, while producing them in the court.
7. In case, any prisoners try to escape, the police personnel will preferably use gloves in coming in contact. In case, it's not possible, they should sanitise their hands and other exposed body parts after catching the prisoner.
8. Preferably the police personnel, who have take both the vaccines and are below the age of 50 without any co morbidly should be detailed for this duty.
9. The driver of the vehicles should also invariably use mask all the times.

Yours faithfully,


Commissioner & Secretary to the Govt. of Assam
Home & Political Department

Memo No.HMB-89/2020/222

Dated Dispur, the 13th May, 2021

Copy for kind information to:

1. The Director General of Police, Assam Police Headquarters, Ulubari, Guwahati-07.
2. The S.O. to the Chief Secretary to the Govt. of Assam, Dispur, Guwahati-06.
3. PS to the Principal Secretary to the Govt. of Assam, Home & Political Department, Dispur, Guwahati-06.



GOVERNMENT OF ASSAM
HOME (B) DEPARTMENT
C. M. BLOCK, 2nd Floor, JANATA BHAWAN

No.HMB.89/2020/227

Dated Dispur, the 15th May, 2021

From : Shri A. K. Bhattacharjee, ACS
Joint Secretary to the Govt. of Assam
Home & Political Department

To : The Inspector General of Prisons, Assam
Khanapara, Guwahati-22.

Sub : Minutes of the meeting dated 12.05.2021 of the High Powered Committee formed by the Assam Government in compliance of the guidelines of Hon'ble Supreme Court of India.

Madam,

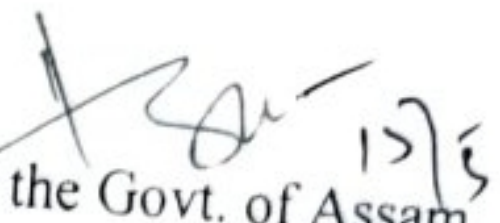
With reference to the subject cited above, I am directed to enclose herewith the copy of the Minutes of the meeting dated 12.05.2021 of the High Powered Committee formed by the Assam Government in compliance of the guidelines of Hon'ble Supreme Court of India and to request you kindly to take necessary action on the following instructions :

1. 15 out of 18 approved inmates who were already allowed to go on parole vide No.HMB.89/2020/70 dated 16.04.2020 may be re-allowed to go on parole for another period of 90 (ninety) so as to tide over the pandemic keeping in view with fresh directions passed Hon'ble Supreme Court of India on 07.05.2021.
2. Take necessary steps with the UTRC of each district to collect the list of the inmates from the jails in the district who are eligible for release (reportedly prepared) considering the local situation in each respective districts and feasibility of release in pursuance to the guidelines already in force and hold a meeting within 3 (three) days and furnish recommendations to the High Powered Committee immediately after the meeting.
3. Issue instructions to all jail superintendents for taking necessary steps for the antigen test/RTPCR test for the jail inmates under their respective jails.
4. Issue necessary instruction to all the jail superintendents for availability of separate quarantine and isolation space to keep the new inmates and asymptomatic inmates respectively so as to contain spreading of the virus.
5. Submit proposal for purchase of N95 masks, hand sanitizers and other essential items directly to Assam State Disaster Management Authority.

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6. Issue instruction to all the jail superintendents to provide a printed copy of the vaccination certificate to the jail inmates so as to ensure that the inmates can take the second dose on furnishing the same to nearby facility providing vaccination, in the event of being released from the jail after the first dose.

Yours faithfully,

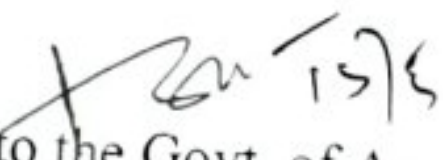

Joint Secretary to the Govt. of Assam
Home & Political Department
Dated Dispur, the 15th May, 2021

Memo No.HMB.89/2020/227-A

Copy to :-

1. The Executive Chairman, Assam State Legal Services Authority/Chairman, High Powered Committee, Panbazar, Guwahati-1.
2. P.S. to the Principal Secretary, Home & Political Department for information.
3. P.S. to the Commissioner & Secretary, Home & Political Department for information.
4. P.S. to the Commissioner & Secretary cum CEO, Assam State Disaster Management Authority, Dispur, Guwahati-6 for kind appraisal of the CEO, ASDMA.

By order etc.,


Joint Secretary to the Govt. of Assam
Home & Political Department

O/c

GOVERNMENT OF ASSAM
HOME (B) DEPARTMENT
C. M. BLOCK, 2nd Floor, JANATA BHAWAN

No.HMB.89/2020/228

Dated Dispur, the 15th May, 2021

From : Shri A. K. Bhattacharjee, ACS
Joint Secretary to the Govt. of Assam
Home & Political Department

To : The Principal Secretary to the Govt. of Assam
Health & Family Welfare Department
Dispur, Guwahati-6.

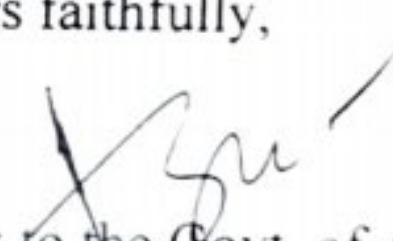
Sub : Minutes of the meeting dated 12.05.2021 of the High Powered Committee formed by the Assam Government in compliance of the guidelines of Hon'ble Supreme Court of India.

Sir,

With reference to the subject cited above, I am directed to enclose herewith the copy of the Minutes of the meeting dated 12.05.2021 of the High Powered Committee formed by the Assam Government in compliance of the guidelines of Hon'ble Supreme Court of India and to request you kindly to take necessary action on the following instructions :

1. Take necessary steps to depute one doctor/team of doctors to visit the jails daily to meet the medical needs of the inmates of the jails.
2. Take necessary steps to vaccinate the inmates of jails immediately to expedite the vaccination drive.
3. Take necessary steps for earmarking of the beds and ICUs in the civil hospitals and GMCH for the jail inmates.
4. Take necessary steps to ensure that at least 2 oxygen cylinders are available in the jail for meeting any emergency which may arise inside the jail.

Yours faithfully,

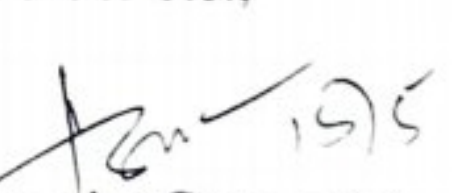

Joint Secretary to the Govt. of Assam
Home & Political Department
Dated Dispur, the 15th May, 2021

Memo No.HMB.89/2020/228-A

Copy to :-

1. The Executive Chairman, Assam State Legal Services Authority/Chairman, High Powered Committee, Panbazar, Guwahati-1.
2. All Deputy Commissioners.
3. The Inspector General of Prisons, Assam, Khanapara, Guwahati-22 for information and necessary action.
- ✓ 4. P.S. to the Principal Secretary, Home & Political Department for information.
5. P.S. to the Commissioner & Secretary, Home & Political Department for information.

By order etc.,


Joint Secretary to the Govt. of Assam