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## Case Comment: Behind Bars, Beyond Equality: The Supreme Court's Crusade against Caste Discrimination in Prisons in reference to Sukanya Shantha v Union of India & Ors

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**JUDGMENT:** 03 October 2024

**CORAM:** Justice Dhananjaya Y Chandrachud CJI, Justice J.B. Pardiwala and Justice Manoj Misra, JJ.

### INTRODUCTION

While society in its entirety succumbs to the evils of caste and discrimination based on it, Indian prisons are no exception to it. Imprisonment is aimed at two things: to penalise and punish the convicted and to reform and rehabilitate the convicts. The prisoners, during their sentence,

perform assigned labour during which they rethink their actions towards society, earn wages and ultimately reform themselves.

Right to be interviewed recognised in cases of *Francis Coralie Mullin v Administrator, Union Territory of Delhi*<sup>1</sup>, *Sheela Barse v State of Maharashtra*<sup>2</sup> facilitated the publication of reports reflecting on their daily plight, and for the present case, one such report laid the foundation stone.

The petitioner, Sukanya Shantha, a journalist, wrote an article and filed a Public Interest Litigation assailing the impugned provisions of Prison Manuals of various States which provide explicit and implicit provisions for caste-based discrimination and segregation of inmates in terms of assignment of labor and barracks under the guise of maintaining peace and order, avoiding alleged clashes between inmates. Through her report titled *From Segregation to Labour, Manu's Caste Law Governs the Indian Prison System*.<sup>3</sup> The petitioner exposed that the work is allotted based on the caste identity that the inmates carry, where mostly the so-called lower caste inmates are burdened with degrading work when compared to those of higher caste inmates.

The provisions were also assailed for their vagueness and for being imbued with stereotypes of society against lower caste people. The court, in the present case, dealt with the issue of whether such differentiation of inmates violates the fundamental rights of those prisoners by revisiting the texts and evolution of jurisprudence of those Fundamental Rights to the present day and assessing the constitutionality of those provisions. It wholly noted the sufferings of lower caste people inside and outside of the prison walls, how the stereotypical prejudicial thoughts against the lower caste transformed into legal texts, and how such provisions posed a significant threat to the reformation and safety of subjugated prisoners and more.

The issue in the present case poses multiple ramifications not only in the condition and reformation of the prisoners but also poses a major hindrance to society in its battle against the evils of caste discrimination in general.

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<sup>1</sup> *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) 2 SCR 516

<sup>2</sup> *Sheela Barse v State of Maharashtra* (1983) 2 SCR 337

<sup>3</sup> Sukanya Shantha, 'From Segregation to Labour, Manu's Caste Law Governs the Indian Prison System' *The Wire* (03 October 2024) <<https://thewire.in/caste/india-prisons-caste-labour-segregation>> accessed 12 January 2025

## **FACTS OF THE CASE**

Journalist Sukanya Shantha brought to light the harsh reality of caste-based discrimination in Indian prisons through her article, *“From Segregation to Labour, Manu’s Caste Law Governs the Indian Prison System,”* published on 10 December 2020. Her investigation revealed how deeply entrenched caste biases continue to shape prison life, from segregation to forced labour. Determined to bring about change, she filed a Public Interest Litigation (PIL) in the Supreme Court, challenging these discriminatory practices. She is urging the court to strike down provisions in state prison manuals that reinforce caste segregation, arguing that they violate the fundamental rights guaranteed under Articles 14, 15, 17, 21, and 23 of the Indian Constitution.

## **ISSUES**

1. Whether the impugned provisions of the Prison manuals/Rules violate the fundamental rights of the prisoners guaranteed under Articles 14, 15, 17, 21, and 23 of the Indian Constitution and thus are unconstitutional.
2. Whether the prison authorities' practice of segregating inmates based on caste identity is constitutional and compatible with fundamental rights guaranteed under Articles 14, 15, 17, 21, and 23 of the Indian Constitution.
3. Whether using criteria like habit, custom, superior mode of living, and natural tendency to escape as a basis for classifying prisoners serves as a valid differentia.

## **ARGUMENTS**

### **Petitioners:**

1. That various State prison manuals sanction blatantly unconstitutional practices, which are violative of Articles 14, 15, 17, 21, and 23 of the Constitution of India.
2. That caste-based discrimination continues to persist in the prisons in the country concerning: (i) The division of manual labour; (ii) Segregation of barracks; and (iii) Provisions that discriminate against prisoners belonging to denotified tribes and habitual offenders.
3. Model Prison Manual 2016 is not adequate, and it does not address issues of caste-based division of labour, segregation, and discrimination against denotified tribes.

4. That Home Departments of the Respondent States may also be directed to clarify the definition of Habitual Offenders in their respective prison manuals to prevent their misuse against the denotified tribes in prisons.

### **Respondents:**

1. Submitted that the Ministry of Home Affairs had formulated and circulated two comprehensive Model Prison Manuals—in 2003 and again in 2016—which explicitly prohibit any form of caste or religion-based discriminatory practices.
2. Also contended that the matter of prisons squarely falls within the domain of State Governments. Under Entry 4, List II (State List) of the Seventh Schedule to the Constitution, subjects such as prisons, reformatories, Borstal institutions, and other institutions of a like nature, and persons detained therein are exclusively assigned to the States.
3. As presented by counsel for State of West Bengal, the discrimination based on caste/creed/ religion as envisaged in the provisions of West Bengal Jail Code Rules, 1967 (Rules No. 741, 793, 860 and 1117) are not in force/ practice within the Correctional Homes of West Bengal since long, and that a proposal for deletion/ alteration/ amendment of the four Rules has been already sent to the appropriate authority.

### **JUDGMENT AND RATIONALE**

The impugned provisions in the Prison Manuals/Rules are declared unconstitutional as they violate Articles 14, 15, 17, 21, and 23 of the Indian Constitution. All States and Union Territories are directed to revise their Prison Manuals/Rules by this judgment within three months.

The Union Government is directed to amend the Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023 to eliminate caste-based discrimination, as outlined in this judgment, within three months.

Any reference to habitual offenders in prison manuals or the Model Prison Manual must align with the definition provided under the respective State's habitual offender legislation. If a State does not have specific legislation, the Union and State Governments must amend their prison manuals/rules to comply with this judgment within three months. Any other definitions of habitual offenders in the impugned prison manuals/rules are declared unconstitutional.

The caste column and any other references to caste in prisoner registers for undertrials and convicts must be removed.

Law enforcement authorities are directed to strictly adhere to the guidelines set in *Arnesh Kumar v State of Bihar*<sup>4</sup> and *Amanatullah Khan v The Commissioner of Police, Delhi*<sup>5</sup>, to ensure that Denotified Tribes are not subjected to arbitrary arrests.

Recognising the widespread discrimination within the prison system on the grounds of caste, gender, and disability, this Court takes *Suo motu* cognisance of the matter. The case shall now be listed as *In Re: Discrimination Inside Prisons in India*. The Registry is directed to schedule a hearing after three months before an appropriate Bench.

On the first hearing of this *Suo motu* petition, the Union Government and all States must submit a compliance report detailing the steps taken to implement this judgment.

District Legal Services Authorities (DLSAS) and the Board of Visitors, constituted under the Model Prison Manual 2016, must regularly inspect prisons to identify any ongoing caste-based discrimination or similar unlawful practices. They must submit joint reports of their findings to the State Legal Services Authorities (SLSAS), which shall compile a consolidated report and forward it to NALSA. NALSA shall then submit a joint status report to this Court in the ongoing *Suo Motu* petition.

The Union Government is directed to circulate a copy of this judgment to the Chief Secretaries of all States and Union Territories within three weeks from the date of delivery of this judgment.

## **ANALYSIS OF THE JUDGMENT**

Even the incarcerated have inherent dignity. While cases like *Sunil Batra v Delhi Administration*,<sup>6</sup> *Charles Sobhraj v Supdt., Central Jail*,<sup>7</sup> reinforced the fundamental rights of prisoners, and *Sukanya Shantha v Union of India*<sup>8</sup> directly addressed one of the critical issues that effectively eclipsed such prisoners' rights and risked the chance of reformation.

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<sup>4</sup> *Arnesh Kumar v State of Bihar* (2014) 8 SCC 273

<sup>5</sup> *Amanatullah Khan v The Commissioner of Police, Delhi* (2024) 5 SCR 927

<sup>6</sup> *Sunil Batra v Delhi Administration* (1980) 1 SCR 392

<sup>7</sup> *Charles Sobhraj v Supdt., Central Jail* (1978) 1 SCR 512

<sup>8</sup> *Sukanya Shantha v Union of India* (2024) INSC 753

It marks one of the important steps in the positive direction, not only against the welfare of prisoners but also of the lower caste people of the society in general. The court vividly discussed and noted from the history of discriminatory practices that prevailed during the pre-colonial, colonial and post-colonial era to present sufferings faced by the lower caste people (prisoners in particular), which best explained and displayed the gravitas of sufferings faced by lower caste people and reminded how the society wears a stereotypical lens towards them and veers their eyes off from the actual reality.

In the Prison manuals of some States, the term Habitual Offenders were used to refer to members belonging to criminal tribes/denotified tribes, and applying that logic, several Prison Manuals/Rules have also referred to habitual offender to mean members of Denotified Tribes or wandering tribes, which the court said cannot be accepted. Ostensible terms like menial jobs, persons accustomed to perform such duties, men of wandering tribes, and criminal tribes seem non-discriminative. The apex court looked beyond the texts and observed the resultant/aftermath rendered by such provisions and declared that those provisions suffer from Indirect discrimination and systematic discrimination, thus unconstitutional.

About forced labour, being forced to undertake the menial tasks simply because of their caste background robs prisoners of the element of choice that other prisoners enjoy. This type of labour assignment, based on their caste, cannot be classified as voluntary and amounts to forced labour under Article 239.

The court found the ground for segregation of prisoners based on caste on the ground of prevention of conflicts between them upheld in *C. Arul v The Secretary to Government*.<sup>10</sup> It is invalid and held that the concerned authorities cannot practice such an act and perform their duties to discipline the inmates, rather than segregate them.

Finally, The court, through its order, i) ordered to amend the provisions which were violative of fundamental rights ii) delete the caste column and any reference to caste from the records of prisoners iii) instructed each state to adopt the state legislature definitions other than which are unconstitutional and thereby altered the provision which was once vague and facilitated the practice of discrimination. The court also reminded that while it can, through its orders,

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<sup>9</sup> Constitution of India 1950, art 23

<sup>10</sup> *C Arul v The Secretary to Government* (2014) Writ Petition (MD) No 6587/2012

maintain the constitutionality of the provisions concerned and enforce it, it is left to the concerned authorities to extend it to the ground reality.

By mandating the abolition of caste-based labour assignments and the removal of caste references in prison records, the Court directly addressed issues of discrimination and inequality that contravened the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and other international conventions like the ICCPR<sup>11</sup> and ICERD<sup>12</sup>. While the impact of the case is resounding at least to an extent, the court still has to sail a long journey ahead.

While the court promised to look the other grounds of discrimination like gender, race etc. it should also look into the other areas of discrimination like shortened visiting hours, restricted access to books and entertainment and medical care, not ensured of hygiene food, unnecessary punishment of grave nature, reduced pay for labour performed, discrimination against visitors, parole, right to information, legal aid, representation, presentation before magistrate etc. Bear in mind, most of these issues were previously addressed in many cases, yet the reforms brought through these cases fail to reflect in reality.

A study on discrimination against Dalit and Adivasi prisoners & victims of police excesses<sup>13</sup> suggests an over-representation of 33.33% by Scheduled Castes and of 51.22% by Scheduled Tribes in the prison population. A short survey of 21 undertrials and inmates found the following: Only 12 undertrials /prisoners were informed of the reasons for their arrest.

8 were not allowed to inform their family member, relative or friend about their arrest. Only in 9 cases police officials showed a memo of arrest at the time of arrest. The primary reasons for these figures are i) vague terms like habitual offenders leaving room for prejudicial interpretation against lower caste people ii) Unawareness of rights vested by arrested iii) Provisions of prison manuals allowing indirect discrimination of prisoners iv) inefficient redressal mechanisms for the affected v) lower judge to population ratio delaying hearing of undertrials.

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<sup>11</sup> International Covenant on Civil and Political Rights 1966

<sup>12</sup> International Convention on the Elimination of All Forms of Racial Discrimination 1969

<sup>13</sup> Rahul Singh, *Criminal Justice in the Shadow of Caste: Study on Discrimination Against Dalit and Adivasi Prisoners & Victims for Police Excesses* (National Campaign on Dalit Human Rights-National Dalit Movement for Justice 2018)

The court's mandate, in the present case, was to address the discrimination faced by prisoners inside the prison. The order passed in this case cannot stand alone while the issue demands a holistic approach. Without the court's directions and orders resolving the other intertwined issues, this order will render negligible reformation. SOPS for arrest must be restructured, and orders should be made for strict adherence to such SOPS, which should involve informing the arrested of the reasons for their arrest and of their rights. While the court once again reinforced the rights and shielded the vulnerable from discrimination, it is high time the court facilitates the weak to exercise their rights on their own.

It is true that through the recommendations of the Mulla committee on Rights of Prisoners, it is established that the prisoners must be informed of all their legal rights and aids. Courts too reiterated the same on many occasions, yet real change was never brought. Bodies of Government should devise a solution to make them aware of their rights and the aids and means to exercise them. What good is a sword if it is hammered, sharpened only to be placed in the trunk and never swung at its enemies?

Through this judgement, SC announced that a reference case *In Re: Discrimination Inside Prisons in India* will be taken up suo moto by the court to address other forms of discrimination faced by the prisoners. In addition to that, the court should drive itself to revisit all its previous judgments on the welfare of prisoners, evaluate them about their present relevance and status, and pass necessary orders to bring 'real and effective' change in the overall welfare of the oppressed.

## **CONCLUSION**

This judgment marks a pivotal moment—not just in prison jurisprudence, but in India's broader battle against systemic caste discrimination. What began as a journalist's unflinching report on prison segregation has now prompted the highest court in the land to step in and call things out for what they are: discriminatory, dehumanising, and unconstitutional.

The Supreme Court hasn't merely struck down outdated and prejudiced provisions; it has sent a message that the rights enshrined in our Constitution don't stop at the prison gates. It's a significant push against the idea that marginalised communities should carry the weight of stigma even when serving their sentence. But as powerful as this judgment is, its real impact



depends on what happens next—whether the states comply, whether the prison manuals are revised, and whether everyday practices inside prisons begin to reflect the dignity that the law now promises.