

IN THE SUPREME COURT OF INDIA

CRLMP No. 7862 of 2017

IN THE MATTER OF:

Shankar Mahto

Petitioner

Vs.

State of Bihar

Respondent(s)

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Place: New Delhi

Date: 16.04.2018

Alok Agarwal
Member Secretary
National Legal Services Authority

IN THE SUPREME COURT OF INDIA
CRLMP No. 7862 of 2017

IN THE MATTER OF: Shankar Mahto vs State of Bihar.

REPORT ON BEHALF OF NALSA and LD. AMICUS CURIAE PURSUANT TO THE DIRECTIONS DATED 24.10.2017 PASSED BY THIS HON'BLE COURT

1. That while entertaining CRLMP No. 7862 of 2017 titled Shankar Mahto vs State of Bihar, this Hon'ble Court was perturbed by large delays in matters filed on behalf of convicts in custody through Legal Aid. This Hon'ble court made the following order on **24.10.2017** on the applications seeking condonation of delay of filing/re-filing of SLPs against the final judgment and order passed by High Court of Patna:

“ Having heard Ms.Vibha Datta Makhija, Learned Amicus Curiae at length today and having perused the suggestions submitted by learned Amicus Curiae we consider it is appropriate to have views of the National Legal Services Authority (NALSA) for laying down step by step procedure for ensuring intimation of an adverse order/judgment to the accused; seeking whether he intends to file an appeal; informing the accused of his right to legal aid, and taking steps to ensure that an appeal is filed. It is also necessary to ensure a monitoring mechanism for following whether due intimation and clarification is being done.”

2. The perusal of the aforesaid order reflects that the Hon'ble Supreme Court has sought the views of NALSA on the following points:
 - (i) Laying down step by step procedure for ensuring intimation of an adverse order/judgment to the accused;
 - (ii) Seeking whether he intends to file an appeal;
 - (iii) Informing the accused of his right to Legal Aid;
 - (iv) Taking steps to ensure that an appeal is filed.
3. In compliance of the directions issued by this Hon'ble Court meeting was convened at NALSA office on **24-11-2017**. The meeting was attended by following officers:
 - Ms. Vibha Datta Makhija, Senior Advocate and Amicus Curiae
 - Shri Alok Agarwal, Member Secretary, NALSA
 - Shri Surinder S. Rathi, Director, NALSA
 - Shri Sunil Chauhan, Project Officer, NALSA

Report of NALSA and Ld. Amicus Curiae for ensuring timely filing of appeals on behalf of convicts.

4. During the meeting, the concerns highlighted by this Hon'ble Court and the directions issued were discussed at length. It was resolved that the right of convict to file appeal through legal aid should be brought to the notice of the convict right at the initial stage by the trial court and for this purpose, the judgment of conviction or the judgment of appellate court of holding of the conviction should carry certificate under following template:
5. Template of Certificate to be appended by the Trial Court/Appellate Court at the end of judgment in cases where convict is in custody or is being sent to custody:

Template for Magisterial / Sessions Court

It is hereby certified that victim has been informed and explained the judgment in vernacular and it is made sure that he has understood the same. It is further certified that victim has been explained that he/she has a right to appeal/revision before the court of Session/High Court(s) within a period of 30/60/90 days.

The convict is also informed that he/she is eligible and entitled to free legal aid by virtue of being in custody. Free and Competent legal services are available from DLSA/SLSA/HCLSC in the court as well as inside the jail.

Convict has been supplied three sets of attested copies of judgment and order of sentence along with the warrant to be used as under:-

- (i) *One copy for the family of the convict;*
- (ii) *One copy for the official jail records to be enclosed with the custody warrant;*
- (iii) *One copy for the convict who shall be allowed to retain it at all times with himself/herself.*

Template for High Court

The Superintendent of Jail is directed to inform the convict within a period of 10 days of pronouncement of the present judgement that he has a right to file appeal and that he/she is eligible and entitled to free legal aid by virtue of being in custody. Free and competent legal services are available from SLSA/HCLSC/SCLSC in the court as well as inside the jail.

Registry to communicate the pronouncement of the present judgment to the concerned superintendent of jail (where the convict is lodged) within 7 days from the date of pronouncement of judgment.

6. In the meanwhile, on **16.11.2017**, Shri Surinder S. Rathi, Director, NALSA attended a meeting convened by Ministry of Home Affairs, which was attended by Director General Prisons of all the 36 States and 7 UTs of India. In that meeting, Director, NALSA highlighted the concern expressed by this Hon'ble Court qua delay in filing the appeal of the convicts. NALSA suggested that apart from tying the loose ends in the process of filing the appeal by the convicts at the end of the various stakeholders, a permanent digital solution using the artificial intelligence needs to be developed nationally.
7. During the meeting, it was revealed that out of 1400 odd Prisons, around 700 Prisons have adopted the e-Prison Software/Portal designed by NIC. States of Haryana, Maharashtra, Goa and Gujarat have digitized their prisons by way of stand-alone private software but are in the process of sharing the data on the National e-Prison Portal. However, issue of non-uploading of digital data by some prisons nationally do crop up. While DG Prisons of some States expressed concern about lack of IT hardware and Data Entry Operators. Ministry of Home Affairs (MHA) assured them of suitable assistance in procuring the hardware apart from preliminary funding for hiring the Data Entry Operators for prisons.
Director, NALSA shared with DG Prisons and MHA that NALSA has Legal Services Clinics in almost 1250 prisons. Under a project, 700 Legal Services Clinics are being digitized nationally.
8. Subsequently, on **22.11.2017**, a meeting was convened at NALSA office. Shri Gaurav Agarwal, Advocate and one Secretary of DLSA from Delhi, standing counsels of several states apart from official of CHRI attended this meeting wherein apart from discussing the ancillary issues of under trial prisoners, the preparedness of legal services institutions to adopt technology was discussed.
9. On **28.11.2017**, Shri Surinder S. Rathi, Director, NALSA and Shri Sunil Chauhan, Project Officer, NALSA held an interaction with Ms. Jasmine Sharma, Secretary, Supreme Court Legal Services Committee qua issues pertaining to UTPs/Convicts who wish to file SLPs/Criminal Appeal, was discussed. It was felt that many times because of non-receipt of

hardcopies/soft scanned copies of the Trial Court Record, Judgment/Order on Sentence, Appellate Court orders, filing of SLP gets delayed. Other problems being faced by UTPs/convicts in accessing the legal services were also discussed.

10. Thereafter, another meeting was held on **30.11.2018** with Director General (Prisons), Tihar and other officials. Two Secretaries namely Shri Dhirender Rana and Shri Jagmohan Singh of DLSA under DSLSA attended it, apart from jail visiting counsel Shri Puneet Garg and arguing counsel Shri Harsh Parabhakar, Delhi High Court Legal Services Committee. NIC team officials had also participated.
11. In this meeting, problems faced by Jail Authorities in processing the documents for timely filing the appeal on behalf of convicts were highlighted by Shri Ajay Kashyap, DG Tihar Jail and Shri S.S. Parihar, DIG.
12. Yet another meeting was held on **06.02.2017**, with Ld. Amicus Curiae Ms. Vibha Datta Makhija wherein issues relating to delaying of appeals was discussed and remedial measures were sorted out. During the meeting, Shri S.S. Rathi, Director, NALSA shared that Delhi SLSA in this regard carried out a detailed exercise when Ld. Director was posted there in the year 2014-15 in case titled Prem Singh vs. state Criminal appeal 879 of 2013 before division bench of Hon'ble High Court of Delhi. Accordingly, on the line of detailed research the Delhi SLSA carried out exercise.
13. Thereafter, the matter was taken up by this Hon'ble Court on **20.02.2018** and Hon'ble Court has directed that:

Ms. Vibha Datta Makhija, learned Amicus Curiae points out that Shri S.S. Rathi, Director, NALSA is present in Court. Shri Subramonium Prasad, learned senior counsel represents Supreme Court Legal Services Committee. It appears that for the effective implementation of the proposed Scheme for ensuring that Criminal Appeals are not neglected and are filed without delay in this Court, it is necessary to have a digital solution for some aspects along with active human interface. For this purpose, it would be necessary that Legal Assistants are given training about their duties and responsibilities in relation to the filing of appeals of convicts whose convictions and sentences have

been upheld by the High Court(s). At the same time, the Legal Services Authorities need to have up-to-date information about each case within their jurisdiction so that the legal assistants can follow it up. For this purpose obviously, a digital solution is necessary. We, accordingly, appoint the Director, NALSA as a nodal agency of the stakeholders, including, Ministry of Human Affairs, police/jail authorities, e-committee for a solution.

14. Keeping in view, the inputs received from all the stakeholders in above detailed meetings Annexed. Two Part Report is proposed by NALSA and Ld. Amicus Curiae Ms. Vibha Datta Makhija is attached herewith as **Annexure-A (6-24)**.

Annexure-A**TWO PART REPORT OF NALSA AND LD. AMICUS CURIAE FOR ENSURING TIMELY FILING OF APPEALS ON BEHALF OF CONVICTS.****PART I**

Contain step-by-step procedure for timely filing of appeals highlighting role of all the stakeholder, problem faced and suggestive solutions. These Recommendations can be put into practice and implemented right way.

Part II

This part of the report contains steps taken for permanent digital solution of all the problems leading to delay in filing of appeals for convicts. Work in this regard is underway and it would take NALSA some time to accomplish the desired results.

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PART-I

1. Major reasons for delay or non-filing of Appeals by Convicts

1.1 Failure to intimate convict

1.1.1 **Convicts unaware of Right to prefer appeal at no cost:** -Trial Courts and Jail Authorities fail to inform the convict that he/she can prefer an Appeal against the Judgment of conviction and an order on sentence before the Higher Court through a Private Counsel, or through a Legal Aid Counsel provided by Legal Services Authorities, which is free of cost for convicts lodged in jails.

1.1.2 **Jail Authorities fail to inform availability of free legal services:** -Failure of Jail Superintendents to effectively inform the convict about availability of free Legal Aid for filing of Appeal from Jail.

1.2 Non Availability of Trial Court Record.

1.2.1 Non-availability of copy of trial court record including charge sheet, prosecution/defence evidence, statement of accused, exhibited documents apart from judgment of conviction and order on sentence, with the convict either in hard copy or in digitized form.

Failure of Legal Aid Counsels/ Amicus Curiae to supply his entire trial file to the convict on the day of sentence.

1.2.2 Practice that is being adopted by Legal Aid Counsels is of applying for certified copy of the entire file for supplying the same to the convict, as it takes several days, at times weeks to obtain them and arrange for its supply to convict in Jail.

1.2.3 Practice of Jail Authorities of writing letters to District Courts, DLSAs and DSLSA regarding deficiency in documents for filing appeal as it results in delaying the matter.

1.3 Some Other Reasons

1.3.1 Frequent shifting of a Convict from one Jail to the other.

1.3.2 Failure of Jail Authorities to keep track of each Convict as to whether he/she has filed the Appeal or not. As well as status of it, if filed by a Pvt. Counsel.

1.3.3 Failure of Jail Superintendent to regularly follow up the matter regarding filing of Appeal by a convict irrespective of the fact whether he desired to engage a Private Counsel or Legal Aid Counsel as per entry in Register No.2.

1.3.4 Refusal of convicts to prefer an appeal apprehending enhancement of sentence awarded by the Trial Court or the fact that the awarded sentence is on the verge of completion.

2. List of Stakeholders in timely filing of appeals by convicts lodged in jails

- 2.1 Trial Court including Sessions as well as Magisterial Courts
- 2.2 District Courts Administration
- 2.3 District Legal Services Authorities
- 2.4 High Court Legal Services Committee
- 2.5 Supreme Court Legal Services Committee;
- 2.6 Jail Authorities

After studying all the aspects NALSA and Ld. Amicus would like to make the following Recommendations applicable to all the above stakeholders individually for increasing overall efficacy in filing of Appeals by the convicts lodged in Jails in Delhi:

3. STEPS TO BE TAKEN BY THE TRIAL COURT (SESSIONS/MAGISTERIAL COURTS)

3.1 Providing copy of Judgment/Sentence/Record to convict

- 3.1.1 All Trial Courts shall scrupulously comply with the direction Section 363 Cr.P.C to furnish a copy of the judgment, and it's translation in vernacular language of the accused, to the accused free of cost.
- 3.1.2 Amendments in High Court Rules must be made to make budget allocation and to provide and ensure that every document over and above the charge sheet supplied to the accused under Section 207 Cr.P.C., including copy of charge, deposition of prosecution/defence witnesses, statement of accused under Section 313 Cr.P.C. or any other additional documents filed by the prosecution/investigating agency during the trial, be supplied to the convict directly or through his/her private/legal aid counsel.
- 3.1.3 All Trial Courts shall ensure that in case of a Legal Aided trial, legal aid counsel delivers to the convict on the date of sentence itself, convict's entire trial file including charge sheet supplied under Section 207 Cr.P.C., copy of deposition of defence / prosecution witnesses, judgment and order

on sentence and any other supporting documents supplied by the convict or his/her family to the legal aid counsel.

- 3.1.4 All Trial Courts shall ensure that instead of one set of attested copy of judgment and order on sentence, convict shall be supplied **three sets** of the same so that he/she can carry one set with him/her to the jail for preparation of an appeal, if such appeal is sought to be filed with the help of legal aid and another set can be retained by his/her family members for exploring the possibility of engaging a private counsel or at least seeking legal advice from any quarter, and one copy with the Superintendent of Jail for official records.

3.2 **Informing about right to appeal**

All Trial Courts shall not only orally but also by way of a specific certificate in the order of sentence, inform the convict that the judgment of conviction and order on sentence are appealable and that Appeal can be preferred through a Private or free Legal Aid Counsel.

- 3.2.1 The Template of Certificate to be appended by the Trial Court/Appellate Court at the end of judgment in cases where convict is in custody or is being sent to custody is recommended as follows:

3.2.2 **Template for Magisterial / Sessions Court**

It is hereby certified that victim has been informed and explained the judgment in vernacular and it is made sure that he has understood the same. It is further certified that victim has been explained that he/she has a right to appeal/revision before the court of Session/High Court(s) within a period of 30/60/90 days.

The convict is also informed that he/she is eligible and entitled to free legal aid by virtue of being in custody. Free and Competent legal services are available from DLSA/SLSA/HCLSC in the court as well as inside the jail.

Convict has been supplied three sets of attested copies of judgment and order of sentence along with the warrant to be used as under: -

- (iv) *One copy for the family of the convict;*
- (v) *One copy for the official jail records to be enclosed with the custody warrant;*
- (vi) *One copy for the convict who shall be allowed to retain it at all times with himself/herself.*

Similarly, a certification must be contained in the final judgment and order of sentence of imprisonment by the Hon'ble High Court/Appellate Court as follows:

3.2.3 **Template for High Court**

The Superintendent of Jail is directed to inform the convict within a period of 10 days of pronouncement of the present judgment that he has a right to file appeal and that he/she is eligible and entitled to free legal aid by virtue of being in custody. Free and competent legal services are available from SLSA/HCLSC/SCLSC in the court as well as inside the jail.

Registry to communicate the pronouncement of the present judgment to the concerned Superintendent of Jail (where the convict is lodged) within 7 days from the date of pronouncement of judgment.

3.3 **Sessions Trial Court to ensure digitization trial court record.**

Post-conviction, Sessions Trial Court shall ensure that the entire trial file is got digitized/scanned along with preparation of proper prescribed Book-mark index within 15 days of pronouncement of order on sentence.

3.4 **Maintaining records of all conviction by Sessions Courts.**

Office of each District & Sessions Judge is already supervising that the data including order sheets, judgments, etc. of all the civil and criminal trials are duly entered in the CIS i.e. (Case Information System). CIS accordingly has data of all the conviction recoded by the Sessions Court of each district in a particular month/year. It is proposed that a query shall be run on the CIS data to cull out a report sheet containing details of all the convictions in a following format:

- (i) Case Reference No.
- (ii) Name of the convict
- (iii) Age
- (iv) Gender
- (v) Parentage
- (vi) Address- Temp/Permanent
- (vii) FIR No.
- (viii) Under Section
- (ix) PS
- (x) District
- (xi) State
- (xii) Charge Sheet under Sections
- (xiii) Charge Sheet No.
- (xiv) Date of filing of charge sheet.
- (xv) Convicted under offense (s)
- (xvi) Date of order on sentence

3.5 Once these data are made available on the CIS Portal district wise in an Excel Sheet typed format with edit facility, following additional inputs/data would be filled up by various stakeholders for achieving the target of timely filing of appeals by convict.

- (i) Last date of filing of appeal as per limitation – *(to be filled by trial court)*;
- (ii) Whether convict wish to prefer appeal (yes/no) – *(to be filled by DLSA upon interacting with convict in jail)*;
- (iii) Whether three attested copies of judgment of conviction and order on sentence are supplied to convict / family (yes/no) – *(to be filled by trial court)*;
- (iv) Whether the entire trial court file has been digitized / scanned with book marking – *(to be filled by the trial court)*;
- (v) Whether District Court has pushed the scanned file on the SFTP Server, yes/no, if yes with date;
- (vi) Whether digitized scanned copy of the TCR is obtained by DLSA yes/no, if yes, date;

- (vii) Whether HCLSC has downloaded the scanned file from FTP Service, yes/no, if yes, date;
- (viii) Whether HCLSC has got the file translated, yes/no, if yes date;
- (ix) Name, mobile and e-mail ID of the lawyer who is assigned to draft proposed appeal at HCLSC;
- (x) Date when such draft is prepared at HCLSC;
- (xi) Date when such draft is sent to SCLSC;
- (xii) Date of marking case to Screening Committee, SCLSC, if mandated;
- (xiii) Date of receipt of Screening Committee Report;
- (xiv) Name, mobile and e-mail ID of the lawyer who is assigned to file SLP;
- (xv) Date of such assignment by SCLSC to panel lawyer;
- (xvi) Date of filing of Appeal/SLP by SCLSC;
- (xvii) Appeal no./SLP no. assigned to the case;
- (xviii) Whether information of filing of appeal shared with convict, yes/no, if yes date;

4. STEPS TO BE TAKEN BY DISTRICT COURTS ADMINISTRATION

4.1 Office of District & Sessions Judge to supervise implementation of directions.

Ld. District & Sessions Judge of each District shall either himself or through a Committee supervise and ensure that all the trial courts and the district court administration compliance and directions scrupulously.

4.2 Ensuring digitization of trial record.

Ld. District & Sessions Judge of each District either directly or through committee shall ensure that post conclusion of trial ending in conviction, the entire trial court file (except disposed miscellaneous application, summons/warrants issued to witnesses/accused, written arguments, if any apart from photocopies of case laws filed by either of the parties) shall be digitized with proper book marking within 15 days from the date of passing of the order on sentence.

4.3 The scanning work can either be done by the record room of the concerned district by arranging in-house scanner or by outsourcing this process to the third party contractor as being done by District Judiciary in NCT of Delhi. These digitized files shall be secured either in computers or in heavy-duty external hard disc in triplicate. Upon request, soft copy of this file can be supplied to convict, his/her family or authorized lawyer on CD/pen drive brought by the party. However, one copy of all the digitized conviction files shall be supplied to DLSA on fortnightly basis by allowing them to obtain copy on a hard disc to be maintained at the end of DLSA for this purpose.

4.4 **Ensuring supply of digitized trial record to Legal Services Institutions.**

Ld. District & Sessions Judge of each District shall ensure that the soft copy of scanned/digitized complete judicial file pertaining to all the convictions of their respective District shall be sent to State Legal Services Authority, High Court Legal Services Committee and Jail Legal Services Clinic on fortnightly basis.

5. **STEPS TO BE TAKEN BY DISTRICT LEGAL SERVICES AUTHORITIES (DLSAs)**

5.1 **Panel lawyers to maintain complete trial file**

The Secretaries of all the DLSAs shall ensure that all the panel lawyers of legal aid shall be thoroughly briefed that while defending the accused in a legal aided case they shall obtain copy of charge, prosecution/defence evidence; statement of accused, and other additional relevant documents filed during the trial and shall maintain their trial file complete in all respect along with judgment and order on sentence.

5.2 **Handing over complete trial court file to convict.**

5.2.1 The Secretaries of all the DLSAs shall ensure that as and when the order of sentence is passed, Legal Aid Counsels shall immediately then and there hand over their entire trial file along with copy of judgment and order on sentence to the convict against duly written receipt This receipt shall be

submitted before the respective DLSA office within seven days of passing of order on sentence.

- 5.2.2 The Secretaries of all the DLSAs shall ensure that as and when any convict, his/her family members or duly authorized counsel approaches them in writing for obtaining a soft copy of the entire trial file for the purpose of filing appeal, the same shall be provided to the applicant free of cost immediately in the form of a C.D or a pen drive brought by the parties.

5.3 **Maintenance of record by DLSA**

The Secretaries of all the DLSAs shall maintain digital/scanned and book marked copy of the trial court record of all the conviction of their district after obtaining them from office of District & Sessions Judge as per 4.2.

5.4 **Ensuring access of data of all conviction with Jail visiting advocates**

Member Secretary, SLSA and Secretary, DLSA shall ensure that the list containing data of all convictions of a particular district maintained as per 3.4 is accessible to jail visiting advocates of DLSA as well as HCLSC. This can be done by ensuring that all the digitized legal services clinics in the jails are duly connected with NIC Net.

Each HCLSC, DLSA as well as Jail Legal Services Clinic shall be provided with login ID and password so as to enable them to update the data sheet / spread sheet culled out CIS database qua each inmate convicted by Sessions Court. They shall be given functionality to only update the relevant columns supposed to be entered by them.

5.5 **Regular visits to jails by Secretary DLSAs**

- 5.5.1 The Secretaries of all the DLSAs shall regularly visit the jail at least fortnightly to ensure that all the suggestions being made are complied with by the Jail Authorities, Jail Visiting Advocates of DLSA and HCLSC and the Legal Services Clinics and submit a soft copy report to the Central Office, DLSA.
- 5.5.2 The Secretaries of all the DLSAs shall interact with all the convicts lodged in the assigned Jail so as to ensure that their appeal is filed in time and shall take requisite remedial steps in case wherever necessary.

6 **STEPS TO BE TAKEN BY HIGH COURT LEGAL SERVICES COMMITTEE (HCLSC)**

Report of NALSA and Ld. Amicus Curiae for ensuring timely filing of appeals on behalf of convicts.

6.1 **Interaction with HCLSC lawyers with convicts.**

The Secretary of HCLSC shall pursue with the State Government and Prison Authorities that every Central and District Jail shall have video conferencing facility. Panel of advocates deputed by HCLSC shall interact with convicts through video conferencing regarding filing and progress of the appeal.

6.2 **Ensuring co-ordination with Jail Authorities and HCLSC Lawyers.**

Secretary, HCLSC shall ensure that the appeal of the convict is filed well within the limitation and no delay happens on account of lack of coordination between the various stakeholders involved in the matter.

6.3 **Translation of Trial Court record from vernacular to English.**

High Court Legal Services Committees shall follow meticulously the resolution passed in the Central Authority Meeting of NALSA held on 29th November, 2014 which is reproduced as under:

'NALSA would advise SLSAs that all matters that are required to be filed before the Supreme Court be processed and prepared by the High Court Legal Services Committees, including translation of documents and that SLSAs transfer adequate funds to High Court Legal Services Committees for preparation and translation of documents before dispatch to the Supreme Court Legal Services Committee for filing'.

6.4 In terms of this resolution, HCLSC is duty bound to ensure that the trial court record of the conviction case is translated from vernacular to English language in a time bound manner within fortnight of receipt of hard copy or the digitized/scanned copy of the trial of the trial court record in legal aided cases for the purpose of proposed drafting of appeals/SLPs.

6.5 For this purpose, either a panel of translators may be maintained by the HCLSC or a dedicated translator may be engaged out of NALSA funds.

6.6 **Drafting, assigning and filing of Appeal.**

The Secretary of HCLSC shall engage services of one or two legal assistants, who shall be law graduate, on contractual basis out of NALSA fund so as to keep track of progress in the drafting, assigning and filing of Appeal including preparation of complete paper book with requisite translation.

7. **STEPS TO BE TAKEN BY SUPREME COURT LEGAL SERVICES COMMITTEES**

Supreme Court Legal Services Committee shall engage services of two Legal Assistants who shall dedicatedly coordinate with Legal Assistants engaged by 36 SLSAs for ensuring timely filing of Appeal in the Hon'ble Supreme Court of the convicts who have preferred to avail free legal services.

8 **Steps to be taken by Jail Authorities**

8.1 **Informing Convict in Jail of right to appeal**

The Jail Superintendent of each Jail shall apprise all the convicts immediately upon their entering into the Jail about their right to file an appeal as well as availability of free legal aid in each Jail. The Jail Superintendent of each jail shall ensure that data entry of all the convicts in different forms/registers including Register No.2 maintained in the jail are not filled in a casual manner but it should be preceded with a calm and patient interaction with each convict.

8.2 **Not changing jails of convicts.**

The DG, Prisons shall ensure that Convicts are not transferred frequently, at least not till their Appeal is filed, unless the situation warrants otherwise.

8.3 **Ensuring production of convicts before legal aid**

The Jail Superintendent of each jail shall ensure that all the convicts are produced before the Legal Services Clinic maintained in each Jail for interaction with the Ld. Secretary, DLSA as well as Jail visiting Advocate.

Superintendent Jail shall ensure a video conferencing of all convicts with HCLSC panel lawyers. The Video conferencing shall be arranged qua both, the convicts who seeks free legal services who have a private lawyer so as to ensure that their appeal are filed in a time bound manner.

Convicts shall be produced before the legal services officials at least once in two weeks till such time the appeal is filed and appeal number is received by the prison authorities.

8.4 **Additional steps by Jail Superintendent.**

The Jail Superintendent of each Jail shall ensure that follow up of cases of all the convicts shall be done in a personal and sensitized manner and all

possible help shall be extended to the convict and his private/legal aid counsel for drafting and timely filing of Appeal.

- 8.4.1 The Jail Superintendent of each Jail shall ensure that a separate record of those inmates who are not interested in filing of any Appeal on account of their apprehension that their sentence might get enhanced or that their sentence period is on the verge of completion is maintained at Legal Services Clinic in each Jail.
- 8.4.2 The Jail Superintendent of each Jail shall ensure that in case they need to communicate with SLSA/HCLSC/DLSAs they shall do so via email, which is more time saving and efficient mode of communication as compared to hard copy letters communication, which results in delay in filing of appeals.

9 Monitoring of time lines

- 9.1 It is highly recommended that a centralized Monitoring Committee for the purpose of timely monitoring of appeals to be filed at every stage by a convict be constituted in every State at the High Court Level. The said Monitoring Committee should be headed by the Member Secretary of SLSA. The Monitoring Committee must consist of at least three members who can be drawn from the panel of DLSA and SLSA who have a good legal aid record. The Monitoring Committee shall be seized of a case immediately on the delivery of the judgment and order of sentence of the Trial Court committing the accused to custody, and shall monitor the movement of the case till the final appellate stage. The duties of the Monitoring Committee shall be to ensure timely filing of appeals and directing all stake holders to take appropriate steps. It shall further also take steps to withdraw matters from legal aid counsels who do not deliver the papers/services within stipulated time lines.
- 9.2 The Monitoring Committee shall prepare a monthly report and place it before the SLSA which shall oversee the reports of the Monitoring Committee and shall pass appropriate directions thereon.
- 9.3 For an effective monitoring of all cases, it is recommended that fixed time lines be stipulated for the effective steps to be taken for filing appeals. A suggested time line is contained in **SCHEDULE 1** appended with the present Report.

PART-II

1. NALSA's Suggestions for Permanent Digital Solution

As on date out of 1400 jails around 700 jails are part of E Prison Portal but none of them have any facility of access to data of FIR through CCTNS or case details through CIS by way of APIs or by any other mode. It was further highlighted that as far as functioning of Legal Services Clinics is concerned, availability of documents like FIR, bail orders, Charge sheet, Witnesses depositions are imperative for effective functioning of Legal Services Clinics, not only for giving effective legal aid and advices but also for filing Bail Application, Parole/Furlough applications, Appeal etc. Following documents are required in the LSCs in Jail qua each UTP /convict.

S.No.	Stage/Document of Trial	Particular of Database where document is/should be available.
1.	FIR	Through CCTNS
2.	1 st Remand Order	Not available as on date either in CIS or CCTNS
3.	2 nd Remand Order	Not available as on date either in CIS or CCTNS
4.	3 rd Remand Order	Not available as on date either in CIS or CCTNS
5.	4 th Remand Order	Not available as on date either in CIS or CCTNS
6.	Applications/software's for highlighting that no charge sheets is filed despite expiry of 60 days of police arrest :	As per section 167 Cr.P.C. UTP deserves technical bail.
7.	5 Remand Order	Not available as on date either in CIS or CCTNS
8.	6 Remand Order	Not available as on date either in CIS or CCTNS
9.	Applications highlighting that no charge sheet is filed within 90 days of police arrest	As per Section 167 Cr. P. C.UTPs deserve Statutory bail.

10.	Other J/C Remand Orders in case of UAPA Act,1967 pre charge sheet is 180 days up to	Not available as on date either in CIS or CCTNS.
11.	Charge sheet	From CCTNS
12.	Court order sheets	From CIS
13.	Charge framed	From CIS
14.	Deposition of witnesses	From CIS
15.	Statement u/s 313 Cr.P.C.	From CIS
16.	Judgement	From CIS
17.	Sentence, if any Text of SLP/Appeal filed in the appellant court , order of the court	From CIS

2. Digitization of Legal Services Clinics in Jail

That NALSA through SLSAs and DLSAs have established Legal Services Clinics in almost **1223 jails**-PAN India. Although, some Legal Services Clinics in jails have already been digitized however, under a dedicated drive/project announced by Hon'ble Mr. Justice Ranjan Gogoi, Executive Chairman, NALSA, 700 Legal Services Clinics would be digitized in the next two months.

See only Access to E Prison Portal or any other software maintaining the data of the prisoners including their case status or any other details regarding their cases, bail applications etc. be provided to the digitized Legal Services Clinics. Providing of Access will enable the panel advocates/PLVs deputed at Jail Legal Services Clinics to know as to how many convicts have filed the appeal and how many have not filed appeals.

There is a need to develop applications/functionality software whereby petitions being sent through the jail to the criminal courts can be sent in digital form to the court so that time consumed in their logistic can be minimize. The affidavit be sworn and vakalatnama can be sent through hard copy.

3. Need of improvements in CIS design

NALSA find that as on date CIS identified a criminal case only after post filing of charge sheet. As regard the order sheets, remand orders, bail orders etc. passed by criminal court post FIR and Pre-charge sheet as such, no such entry is made in the CIS. Consequently, this data remains with the criminal courts in hard copy format. This data is important in so far as around 68% of all the prison inmates are UTPs qua whom the charge sheet is yet to be filed i.e. between FIR and charge sheet stage. Pilot Project was started in the year 2014-15 by Delhi State Legal Services Authority whereby pre-charge sheet orders were being uploaded to the E Prison Portal. This practice was discontinued with an observation that soon API would be designed for uplifting of the such orders from CIS unmindful of the fact that CIS does not contain any such orders passed by criminal court prior to filing of charge sheet.

4. Way forward on the issues – correction in the design of CIS.

CIS as on date is giving CRN Number (Case Reference Number) only post charge sheet. It needs to be redesigned so as to include all the FIRs registered as per CCTNS. Once this basic functionality is added in CIS, every judicial order passed by the court including police remand, judicial remand, bail application can be made available for consumption by LACs, Police, Department of Prosecution, Trial Courts and other concerned bodies.

5. Problem of inherently incorrect data base on E Prison Portal

NALSA found that as on date E Prison Portal as well as other software independently designed by other States contain incorrect data's in so far as their data base is maintained on the basis of inputs and case details taken from the first custody warrant sent by criminal court soon after the arrest of the accused.

NALSA finds that legally speaking the details of the case as contained in initial FIR can change in two stages i.e.:-

- (i) at the time of filing of charge sheet and
- (ii) at the time of framing of charge.

NALSA lately filed a detailed report before the bench of led by Hon'ble Mr. Justice Madan B. Lokur and Mr. Deepak Gupta, Hon'ble Supreme Court in WP(C) 406/2013 Re-Inhuman Conditions in 1382 Prisons, whereby newly designed remand paper which was earlier designed in 2014 was filed. This remand paper

contains scope for correcting the details of the offence as per different stages. Possibility of having paperless digitally signed remand paper by criminal courts was also discussed whereby the instances of non updation of details of the offences can be completely ruled out .

6. Development of dedicated Legal Services Web Page in E Prisons Portal

NALSA has lately requested NIC to develop a functionality in the E Prison portal by way of dedicated Application/Software where legal services advocates visiting the jails can enter their inputs qua the legal advices given to the UTP/Convict and the action taken i.e. bail/ filing application / appeal etc.

7. Putting in place Digital Method of Pushing E appeals by Convicts to courts instead of hard copy

NALSA has requested NIC to develop applications/functionality software whereby petitions being sent through the jail to the criminal courts can be sent in digital form to the court so that time consumed in their logistic can be minimize. The affidavit be sworn and vakalatnama can be sent through hard copy.

SCHEDULE I

STAGE I- TRIAL COURT TO SESSIONS COURT/ HIGH COURT

<p>Day 0→</p> <p>Trial Court to inform the accused of the Order on Sentence passed by it</p> <p>-Form to be filled up by the Accused</p> <p>-Copy of TC record be appended to the Order of Sentence, and delivered free of cost to the legal aided convicts</p>	<p>Upto Day 10→</p> <p>-Jail Superintendent to also officially and in writing inform the result of appeal to convict.</p> <p>-DLSA representative to visit jail and inform convict of his/her rights, and also advise on future course of action</p> <p>-DLSA representative to obtain form/information regarding choice of legal aid.</p>	<p>Upto Day 30 →</p> <p>-DLSA panel lawyer to draft appeal</p> <p>- Draft appeal to be sent to convict through Jail Superintendent.</p> <p>- 1st reminder/check by Jail Superintendent officially and in writing regarding filing of appeal</p> <p>-Status to be reported to the Monitoring Committee.</p> <p>1st Monitoring Committee Review</p>	<p>Day 40 to 60 →</p> <p>-2nd reminder to be given by the Jail Superintendent officially and in writing to the convict</p> <p>2nd Monitoring Committee Review</p>	<p>Day 90 →</p> <p>File Appeal</p>	<p>Actual date of filing of appeal→</p>	<p>Date of Admission of Appeal</p> <p>↓</p> <p>Full Preparation of Record including translations of the Trial Court Record to be prepared on this stage itself to avoid future delays.</p>
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Report of NALSA and Ld. Amicus Curiae for ensuring timely filing of appeals on behalf of convicts.

STAGE II- HIGH COURT TO SUPREME COURT

Date of → filing Appeal [The Trial Court record must be available alongwith translations in English at time of Admission of Appeal and prior to delivery of final Judgment and Sentence]	Day 0→ Date of final Judgment/ confirmation of sentence Or Grant of conviction and sentence from State/Complainant's Appeal	Upto Day 10→ -Jail Superintendent officially and in writing to inform of result of appeal -Delivery of copy of Judgment in hard/soft copy to convict -DLSA/SLSA lawyer to visit jail, inform convict regarding rights -Obtain form of convict regarding choice of legal aid	Upto Day 30→ -SCLSC panel lawyer to draft appeal. -Status of Appeal to be transmitted to Monitoring Committee 1 st reminder/check by Jail Superintendent officially and in writing regarding filing of appeal -If draft is delivered after expiry of 10 days, case to be transmitted to another panel lawyer 1st Monitoring Committee Review	Upto Day 60 → Final Draft -2nd reminder to be given by the Jail Superintendent officially and in writing to the convict 2nd Monitoring Committee Review	Upto Day 90 File Appeal