

Caste bias, segregation in prisons violate dignity: Supreme Court

Central, State prison manuals, laws must be revised within three months, rules three-judge Bench headed by CJI; even 21st century regulations discriminate against 'scavenger class', 'habitual offenders'

Updated - October 04, 2024 02:28 am IST - NEW DELHI



KRISHNADAS RAJAGOPAL



Inmates at Coimbatore Central Prison. File photo used for representation. | Photo Credit: Special Arrangement

The Supreme Court on Thursday declared that caste-based discrimination of prisoners, segregation of their work according to caste hierarchy, and the treatment of inmates from the de-notified tribes as "habitual offenders" within prison walls across India are oppressive to fundamental human dignity and personality.

The court directed the revision of prison manuals within three months. It ordered the deletion of the 'caste column' and any references to caste in registers of undertrials and convicts maintained in prisons. The court underscored that members of denotified tribes must not be subjected to arbitrary arrest.

Removing bias

The Bench says "everyone is born equal" and cannot suffer lifelong due to stigma attached to their caste.

The directions include:

- States and UTs should revise their Prison Manuals/Rules in three months
- Centre should address caste-based discrimination in the Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023 in

three months

- "Caste columns" and references to caste in prisoners' registers should be removed



"Everyone is born equal. There cannot be any stigma attached to the existence, touch or presence of any person... More than 75 years since Independence, we have not been able to eradicate the evil of caste discrimination," a three-judge Bench headed by Chief Justice of India D.Y. Chandrachud observed.

Violates Constitution

Chief Justice Chandrachud, who authored the judgment, referred to Article 15(1) of the Constitution which enshrines the fundamental right against discrimination. "But if the state itself discriminates against a citizen, then it is discrimination of the highest form. After all, the state is expected to prevent discrimination, not perpetuate it," the Chief Justice noted.

The Chief Justice held that discrimination among prisoners and distribution of work on the basis of caste amounted to untouchability, which is forbidden under Article 17 of the Constitution.

The top court emphasised that "no prison authority enjoys amnesty for unconstitutionality". Degrading labour and oppressive practices violate the right against

forced labour under Article 23 of the Constitution.

Prison manuals, by treating members of the denotified and wandering tribes as “born criminals” and habitual offenders, re-affirm colonial caste-based discrimination. The court declared all loose references, not statutorily backed, to ‘habitual offenders’ in prison manuals as unconstitutional.

‘Form of coercion’

Segregation of prisoners on the basis of caste would only work to reinforce caste animosity, the court said. “Segregation would not lead to rehabilitation... Only such classification [of prisoners] that proceeds from an objective inquiry of factors such as work aptitude, accommodation needs, special medical and psychological needs of the prisoner would pass constitutional muster,” Chief Justice Chandrachud reasoned.

The judgment declared that compelling marginalised caste inmates to perform tasks like cleaning latrines or sweeping, without providing them any choice in the matter and based purely on their caste, constituted a form of coercion.

‘No scavenger class’

Prison manuals and rules which relegate tasks like manual scavenging to the lowest castes or refer them to as ‘scavenger class’ practice untouchability.

The court held that the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, which prohibit manual scavenging, has a binding effect in prisons as well.

“No social group is born as a ‘scavenger class’. They are forced to undertake certain jobs that are considered ‘menial’ and polluting based on the notions of birth-based purity and pollution,” Chief Justice Chandrachud wrote.

Caste in modern laws

Even the Union government’s Modern Prison Manual of 2016 and the “progressive and robust” Model Prisons and Correctional Services Act of 2023 variously rate “habitual offenders” who are mostly members of de-notified tribes with rapists, murderers,

prostitutes, and brothel keepers. These laws assign kitchen duties and cooking in prisons on a caste and religious basis. They continue to allow caste-based privileges in prisons.

The court directed the Union government to make the necessary changes to address caste-based discrimination in the 2016 Manual and the 2023 Act within three months.

The judgment was based on a petition filed by journalist Sukanya Shantha. The top court had found that prison manuals in more than 10 States, including Uttar Pradesh, West Bengal, Odisha, Maharashtra, Tamil Nadu, and Kerala, contained provisions which sanction discrimination and forced labour in prisons on the grounds of caste.

The separation of Thevars, Nadars, and Pallars in different sections of the Palayamkottai Central Jail in Tamil Nadu was one such “glaring instance of caste-based segregation of barracks”, the petition had pointed out.

Published - October 03, 2024 12:03 pm IST