

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (PIL) No. 1218 of 2022

Md. Mumtaz Ansari, aged about 33 years, Son of Md. Mohiuddin Ansari, Resident of Telkal Bhuli Road, P.S.- Bank More, P.O. and District - Dhanbad, Jharkhand.

... Petitioner

Versus

1. The State of Jharkhand, Through Chief Secretary, 1st Floor, Project Bhawan, P.O. & P.S. Dhurwa, Ranchi-834004.
2. Secretary, Department of Home, Jail & Disaster Management, 2nd Floor, Project Bhawan, Dhurwa, P.O. and P.S.-Dhurwa, Ranchi - 834004.
3. Secretary, Department of Law, 2nd Floor, Project Bhawan, P.O. and P.S.-Dhurwa, Ranchi - 834004.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner: Md. Shadab Ansari, Advocate
For the Respondents: Mr Gaurav Raj, A.C. to A.A.G.-II

Reserved on: 07.05.2026

Pronounced on: 14/05/2026

Per M. S. Sonak, C.J.

1. The present writ petition has been filed in public interest seeking, inter alia, the following reliefs –

- a. *Direction upon the Respondent concerned to issue Government Order/direction/notification/ circular to conduct Judicial Enquiry in every cases of death or disappearance of a person, or rape of a woman while such person/woman is in the custody of the police or in Judicial Custody as per the mandate of 176 (1-A) of Cr.P.C*
- b. *Pass any such other order/s as may be deemed fit in the facts and circumstances of this case*

2. The above reliefs are sought in public interest litigation on behalf of the victims of custodial violence, the families of the deceased, and the marginalised and socio-economically weaker sections of society in the State of Jharkhand, who often lack the awareness and financial resources to legally pursue and enforce their fundamental rights against the State machinery.
3. The petitioner's case is predicated upon a written reply furnished by the Department of Home, Prison and Disaster Management, Government of Jharkhand, in response to a starred question in the State Legislative Assembly. This official disclosure reveals that a total of 166 persons died in police or judicial custody between 2019 and 2021. Based on these figures, the petitioner contends that in most of these instances, the cause of death was custodial violence or torture.
4. The Petitioner further submitted that despite the statutory mandate under S. 176(1-A) of the Cr.P.C., 1973, requiring custodial death inquiries to be conducted by a Judicial Magistrate, the respondent authorities have regularly deputed Executive Magistrates for this purpose in blatant disregard of the law.
5. In response to these allegations, the respondents have filed several affidavits in these proceedings. However, their consistent contention is that the present petition is frivolous, misconceived, and legally unsustainable, and therefore warrants dismissal. For a considerable time, the respondents chose to remain in a state of denial. Finally, a

supplementary counter-affidavit dated 13.03.2026 was filed, providing statistical data on custodial deaths between 2018 and 2026 and on how the State Administration handled these issues.

- 6. The rival contentions, therefore, now fall for our determination.
- 7. The supplementary counter-affidavit dated 13.03.2026, filed by Respondent No. 2, paints a deeply distressing and shocking picture of systemic non-compliance. The statistical data on custodial deaths from 2018 onwards, as extrapolated from Annexure-D to the affidavit, reveal a situation that strikes at the very root of the Rule of Law.
- 8. The relevant particulars, as disclosed in the affidavit, are reproduced below:

<u>Particulars</u>	<u>Total</u>
No. of custodial death	427
No. of Custodial Death brought to the notice of Magistrate for enquiry.	427
No. of enquiry conducted by the Magistrate under Section 176 Cr.P.C or Section 196 of BNSS, 2023	427
No. of Magisterial inquiry held in addition to police inquiry	427
No. of inquiry done by Executive Magistrate	262
No. of inquiry done by Judicial Magistrate	225
No. of cases in which NHRC Guidelines taken into count	427
No. of cases in which provisions of BNSS complied (for cases from 2023-2025 only)	133

9. On a perusal of this data, this Court is shocked beyond words. While the respondents claim that magisterial inquiries were conducted in all 427 cases, their own figures reveal either a fundamental misunderstanding or a total disregard for the law. This Court fails to comprehend how the respondents can, under oath, state that they have complied with the mandates of Section 176 of the Cr.P.C. or Section 196 of the BNSS in letter and spirit.
10. By their own admission, 262 inquiries were conducted by Executive Magistrates, even though the law had unequivocally stripped the Executive of this prerogative two decades ago. Enquiries by Executive Magistrates could never have been regarded as substitutes for enquiries by judicial magistrates in matters of custodial deaths. Yet the affidavit claims that the letter and spirit of the law were followed when addressing the issue of large-scale custodial deaths in Jharkhand.
11. The figure, or at least the disclosed figure of 427 custodial deaths between 2018 and 2016, is alarming. But even more alarming is the utter disregard for legal procedures when addressing such issues of custodial deaths. The breaches, serious by themselves, if unchecked, will increase custodial unnatural deaths, embolden the perpetrators, and promote lawlessness. The right to life protected by our Constitution also extends to those in the custody of State Authorities, and those in Authority cannot, therefore, trample upon this right by disregarding, with impunity, the legal and Constitutional safeguards.

12. The right to life is not a mere biological concept; it is an expansive guarantee that inherently encompasses the **right to live with human dignity**¹. These fundamental tenets of existence continue to animate our legal and constitutional landscape, remaining immutable regardless of an individual's status. Consequently, even when an individual is accused of an offence or stands as a convicted prisoner, her entitlement to a dignified and peaceful life remains inviolable.
13. The occurrence of a fatality within the coercive control of the State, legally categorised as a "custodial death", represents a profound failure of the constitutional machinery. In a civilised society governed by the Rule of Law, custodial violence is an affront to the very essence of justice. The social contract between the State and its citizens is fundamentally predicated on the dual pillars of dignity and security. Any breach of this trust while a person is in the State's care strikes at the heart of our democratic values.
14. The Latin maxim "*salus populi est suprema lex*," which translates into the safety of the people is the supreme law, further emphasising the need for the protection of dignity during arrest and custody. Similarly, "*salus reipublicae est suprema lex*," which translates into the safety of the State, is the Supreme law, highlighting the co-existence of the safety of people and the state.
15. A combined reading of these doctrines underscores the principle that although an individual's welfare may at times yield to the

¹ Elizabeth Wicks, The Meaning of 'Life': Dignity and the Right to Life in International Human Rights Treaties, Vol 12, Human Rights Law Review; c2012. p. 199-203.

community's, the State, by taking a citizen into custody, does not extinguish its obligations towards that individual. On the contrary, those obligations are intensified, as the State alone stands between the citizen and harm. The coercive power of the executive, which deprives the citizen of his liberty, simultaneously generates a corresponding constitutional duty to safeguard the liberty that remains.

16. The constitutional anchor of this duty is enshrined under Article 21 of the Constitution, which declares that no person shall be deprived of his life or personal liberty except according to procedure established by law. Lest there be any doubt that this guarantee extends in full vigour to the persons in custody, the Hon'ble Supreme Court, in the case of *In Re: Inhuman Conditions in 1382 Prisons, reported in (2017) 10 SCC 658*, laid down with constitutional finality, in Paragraph 2 of that judgment:

“Like most societies, we are not strangers to custodial violence and unnatural deaths but our vibrant democracy permits us to debate and discuss these issues with rational arguments. However, right sounding noises critical of custodial violence (in any form) cannot achieve any useful purpose unless persons in authority hear the voices of the victims or the silence of the dead and act on them by taking remedial steps. There must be a greater degree of sensitivity among those in authority with regard to

persons in custody and it has been the endeavour of the constitutional courts in our country, over several decades, to consistently flag this issue. The results have been somewhat mixed but the effort will continue as long as Article 21 remains in our Constitution. This message goes out loud and clear, as also the message that the dignity of the individual is not a plaything for those in authority."

17. Moreover, the Hon'ble Supreme Court, in the case of **Nilabati Behera v. State of Orissa**, reported in (1993) 2 SCC 746, articulated the precise content of the State's constitutional obligation towards persons in its custody with an authority and clarity that has since become foundational to this entire branch of jurisprudence.

18. The relevant excerpt from the above-mentioned dictum is reproduced as follows:

"It is an obligation of the State to ensure that there is no infringement of the indefeasible rights of a citizen to life, except in accordance with law while the citizen is in its custody. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials or other prisoners in custody, except according to procedure established by law. There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. His liberty is in the very nature of things

circumscribed by the very fact of his confinement and therefore his interest in the limited liberty left to him is rather precious. The duty of care on the part of the State is strict and admits of no exceptions."

19. The expression "*the duty of care on the part of the State is strict and admits of no exceptions*" is not rhetorical hyperbole. It is a precise legal standard of constitutional magnitude. The concurring opinion of **Hon'ble Justice A.S. Anand** in the same judgment reinforced the corollary of this obligation, the availability of public law remedies before this Court, in terms that this Bench adopts in full:

"The citizen complaining of the infringement of the indefeasible right under Article 21 of the Constitution cannot be told that for the established violation of the fundamental right to life, he cannot get any relief under the public law by the courts exercising writ jurisdiction."

20. In view of the legal principles elucidated above, the State's contention that the present petition is frivolous or misconceived in law cannot be sustained. Given the alarming figures of custodial deaths finally disclosed to the Court, the State should not have taken such an insensitive plea, at least in this matter. This is more so because the record in this case reveals a sustained non-compliance with the substantive and procedural safeguards the law has provided to check custodial deaths. The mandate of Section 176(1-A) of the

Cr.P.C. (now Section 196(2) of the BNSS) is not a directory suggestion but a statutory command of paramount importance.

21. Any continued departure from this statutory requirement, as highlighted by the petitioner, constitutes a direct infringement of the procedural and substantive safeguards inherent in Article 21 of the Constitution. This Court is constitutionally obligated to admit and hear this matter to ensure that the Rule of Law is not diluted and that the administrative machinery remains strictly within the bounds of its legal authority.
22. Further, it is evident that the petitioner's case rests primarily on the assertion that the mandatory rigours of Section 176(1-A) of the Cr.P.C. (now Section 196(2) of the BNSS) are being systematically bypassed by the respondent authorities. The core grievance is that the statutory requirement for an independent judicial inquiry is being treated as discretionary rather than mandatory.
23. To fully appreciate the shift in the burden of inquiry from the Executive to the Judiciary, it is imperative for this court to examine the historical genesis of the amendment to the erstwhile Section 176 of the Cr.P.C.. This legislative evolution was not merely a procedural update; rather, it was a substantive response to the systemic vulnerabilities identified in the previous framework, particularly regarding cases of custodial death, disappearance, and rape. The legislative history of the provision mandating magisterial inquiries

into custodial deaths serves as a profound narrative of institutional recognition, systemic failure, and subsequent legislative remediation.

24. Under the original framework of Section 176 of the Code of Criminal Procedure, 1973, the responsibility for conducting inquests into deaths occurring in police or judicial custody was vested in the Executive Magistrate. This arrangement was inherently problematic, as it placed the inquiry within the same executive framework it was designed to oversee. Both the inquiring officer and the personnel whose conduct was under scrutiny were functionaries of the same administrative hierarchy, often operating under identical political and bureaucratic pressures. This structural overlap created a fundamental conflict of interest, where the proximity between the investigator and the investigated risked undermining the very neutrality required for a credible fact-finding mission.

25. It was in this precise context that the Law Commission of India addressed the grave issue of custodial crimes in its 152nd Report of 1994. The Commission recognised that the existing executive machinery was inadequate to satisfy the collective conscience and the thirst for justice demanded by the citizenry.

26. Consequently, in paragraph 2.7 of the said report, the Law Commission observed as follows:

“Where custodial violence results in death of the victim, obviously the substantive law has failed. But procedural law must ‘take over’ in order that the factum of death, the

cause of death, the mode of death and other relevant facts are ascertained. As far as possible, the ascertainment of such facts must be (a) quick in its timing, (b) adequate in its coverage, (c) thorough in its methodology, and (d) impartial in its approach. The desideratum that we have mentioned last in the above enumeration is, of course, of the highest importance. It is in regard to this very desideratum that the present situation is not satisfactory. No doubt, the statutory law, particularly, the Code of Criminal Procedure, does contain a few provisions on the subject, but experience seems to indicate that there are three major defects in this regard. In the first place, though inquest by the Executive Magistrate is, at present, mandatory, cases are not known where police officers are associated with the inquiry, thus defeating the very object of the provision for Magisterial inquiry. Secondly, without casting any reflections on the police or Executive Magistrates, one must take note of the fact that these inquests have not always inspired public confidence. This is evident from the persistent demands for the appointment of Commissions of Inquiry that are made whenever there is custodial torture, rape or death.”

27. This judicial scepticism towards the impartiality of executive-led investigations was further echoed by the Hon’ble Supreme Court in

State of M.P. v. Shyam Sunder Trivedi, reported in (1995) 4 SCC 262. In that landmark decision, the Hon'ble Court recognised the inherent difficulty in securing evidence against police personnel due to institutional loyalties.

28. The Hon'ble Apex Court observed as follows:

“It is difficult to expect direct ocular evidence of the complicity of the police. Bound as they are by the ties of brotherhood, often police personnel would not come forward to give evidence and more often than not, police officers could, as happened in that case, feign total ignorance about the matter. Courts should not, in such cases, show an exaggerated adherence to the principle of proof beyond reasonable doubt. There will hardly be any evidence available to the prosecution to implicate the police. The Court called deaths in police custody as the ‘worst kind of crimes in civilised society, governed by rule of law. Men in khaki are not above the law.’”

29. This judicial recognition of the systemic hurdles in achieving accountability within the executive framework served as a catalyst for legislative change. It became evident that without a neutral arbiter, the constitutional guarantee of a fair and impartial investigation would remain elusive in cases of custodial deaths.

30. Accordingly, recognising this structural failure and the "*ties of brotherhood*" that often impede the discovery of truth, Parliament

enacted what it expected to be a decisive legislative remedy. The Code of Criminal Procedure (Amendment) Act, 2005, inserted Section 176(1-A) into the Code, which took effect on June 23, 2006. This amendment signalled a fundamental shift in the legal landscape by mandating judicial oversight in place of executive discretion.

31. The provision is reproduced in verbatim for the convenience of reference:

“176. Inquiry by Magistrate into cause of death.—(1) when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174], the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(1A) Where,—

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Code in addition

to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, under sub-section (1A) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person

appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.

Explanation.—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.”

32. A plain reading of the above provision makes it axiomatic that the law mandates a specific procedural course. It creates a compulsory obligation that whenever the death or disappearance of an individual or a rape occurs in police custody, the inquiry must be conducted by a Judicial Magistrate or a Metropolitan Magistrate.
33. The legislative use of the term “**shall**” in this context is an unequivocal command, signalling that the requirement is mandatory, non-discretionary, and admits of no executive substitution. By vesting this power exclusively in the Judicial Branch, the legislature has effectively declared that, in matters of custodial deaths, the fact-finding process must be independent and insulated from the police department's hierarchical structure. Therefore, enquiries by the Executive Branch in matters of custodial deaths can never be a substitute for enquiries by the Judicial Branch.
34. In this regard, it is pertinent to note that Constitutional Courts across the length and breadth of our country have consistently recognised the mandatory nature of Section 176(1-A) of the Cr.P.C. and its successor, Section 196(2) of the BNSS. The Hon’ble Gujarat High Court in **State v. Union of India (Cr.M.A. No. 10625 of 2009)**, the

Hon'ble Madras High Court in **P. Pugalenth v. State of Tamil Nadu (W.P. No. 25743 of 2010)**, the Hon'ble Bombay High Court in **India Centre for Human Rights and Law v. State of Maharashtra (Criminal PIL No. 8 of 2008)**, and the Hon'ble Andhra Pradesh High Court in **Mohamad Nazma Begum v. Government of Andhra Pradesh (W.P. No. 15484 of 2009)** have collectively and unequivocally reiterated a foundational principle of criminal jurisprudence, namely that the word "shall" in Section 176(1-A) operates as an absolute jurisdictional mandate rather than a directory prescription.

35. These Courts have consistently held that the provision is mandatory and that custodial death inquiries must be conducted by the Judicial Magistrate, thereby excluding the Executive branch to prevent any conflict of interest or departmental bias.
36. This legislative imperative has been further carried forward and reinforced under the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Section 196(2) of the BNSS** replicates the mandate for a compulsory inquiry by a Judicial Magistrate or Metropolitan Magistrate in cases of custodial death. However, it is pertinent to clarify that the term "Magistrate" as employed in Section 196 must not be broadly construed to include any category of Magistrate.
37. The interpretive mandate under S. 3(1) of the BNSS effectively resolves any lingering ambiguity regarding the nature of the inquiring authority. The provision stipulates that, unless the context otherwise

requires, any reference in any law to a “Magistrate” without any qualifying words shall be construed as a reference to a Judicial Magistrate of the first class or a Judicial Magistrate of the second class, as the case may be, exercising jurisdiction in such area.

38. This statutory rule of construction makes it axiomatic that the legislature intended the "Magisterial Inquiry" under S. 196(2) to be a strictly judicial function. Consequently, the Executive, which is itself charged with the failure to prevent custodial death, is left with no prerogative to assign these duties to an Executive Magistrate, as such a move would be an unequivocal violation of the definitions set out by Parliament and of the legislative scheme.

39. Moreover, the National Human Rights Commission (NHRC), New Delhi, in its proceedings dated 04.09.2020, has further fortified this position by providing a definitive interpretation of Section 176(1-A) of the Cr.P.C. The Commission has observed as follows :

“Section 176 (1A) of Cr.P.C. has been inserted by way of amendment with a view to deal with the cases of special circumstances which are mentioned therein when a person dies or disappears or rape is alleged to have been committed on any woman while such person is in the custody of police or any other custody authorized by the court.

Inquiries shall also be held by Judicial Magistrate or the Metropolitan Magistrate in addition to the inquiries or

investigations held by the police within the local jurisdiction where the offence has been committed. So the inquiry is the condition precedent to determine an offence and unless the inquiry is conducted by Judicial Magistrate or the Metropolitan Magistrate in cases where any person dies or disappears or rape is alleged to have been committed on any woman, while such person or woman in police or judicial custody, there seems to be no scope to determine that such incident of custodial death, disappearance or rape as the case may be, is an offence. Therefore, to give more sanctity to such inquiry, the power has been given to the Judicial Magistrate/Metropolitan Magistrate by inserting new amended provision in Section 176 Cr.P.C.

Alternatively, it can be viewed that the contemplation of legislature is that in three circumstances viz. death, disappearance or rape alleged to have been committed on any woman within the police or judicial custody, there must be an inquiry to be conducted by the Judicial Magistrate or Metropolitan Magistrate, in whose jurisdiction, the incident has taken place. The purport and meaning of 'offence' as inserted in 176 (1A) Cr.P.C., presumably, the death, disappearance or rape alleged to have been committed on any woman, while the person is in police or judicial

custody, is that, the Judicial Magistrate or the Metropolitan Magistrate by holding an enquiry must come to a conclusion whether the death in custody, is due to torture, ill-treatment or negligence by the concerned public servant culminating to an offence or a natural death. Therefore, before holding an inquiry by the Judicial Magistrate or the Metropolitan Magistrate, nothing can be attributed as to the cause of death, disappearance or rape alleged to have been committed on any woman, qua offence...”

40. Lastly, the continuity of this mandate across two successive codes of criminal procedure reflects a settled and irreversible parliamentary determination. It establishes that the inquiry into custodial death belongs exclusively to the judicial branch, and the executive enquiries can offer no substitute. **Accordingly, an inquiry conducted by an Executive Magistrate into a custodial death occurring after June 23, 2006, in substitution for a judicial enquiry as mandated by law, is not a mere procedural lapse but a serious dereliction in the discharge of statutory duty.**

41. As noted at the outset, the counter-affidavits on behalf of the State reveal a deeply distressing and shocking picture of systemic non-compliance. The statistical data on custodial deaths from 2018 onwards, as extrapolated from Annexure-D of the affidavit, show that there were 427 custodial deaths since 2018. This is an unusually large

figure. In 262 cases, no inquiries were held by a judicial magistrate, thereby grossly breaching statutory and constitutional mandates. Enquiries through the executive magistrates, perhaps hand-picked, were sought to be passed off as substitutes for statutory compliance. The NHRC guidelines on the subject were also observed only in breach. Despite all this, the State alleges that this petition is frivolous and should be dismissed.

42. On a perusal of the data furnished by the State itself, and assuming that it reflects the entire and correct position, this Court is shocked beyond words. While the respondents claim that magisterial inquiries were conducted in all 427 cases, their own figures betray a fundamental misunderstanding or a total disregard for the law. This Court fails to comprehend how the respondents can, under oath, state that they have complied with the mandate of Section 176 of the Cr.P.C. or Section 196 of the BNSS in letter and spirit. By their own admission, 262 inquiries were conducted by Executive Magistrates, even though the law unequivocally stripped the Executive of this prerogative two decades ago.

43. Furthermore, the data presented is mathematically irreconcilable. The respondents state that 262 inquiries were conducted by Executive Magistrates and 225 by Judicial Magistrates, resulting in a total of 487 inquiries. This figure stands in inexplicable contradiction to the respondents' own primary submission that the total number of reported custodial deaths is only 427. This discrepancy not only

reflects a systemic disregard for the law but also casts serious doubt on the State's veracity and diligence in maintaining these records.

44. This also reveals a sorry state of affairs and compels this Court to presume that the correct data is not being presented. Regardless of the numerical inconsistencies, the failure to hold the mandatory judicial enquiries, or to regard enquiries held by Executive magistrates as a substitute, demonstrates utter disdain for statutory compliance and the sanctity accorded to the right to life under our Constitution.

45. Apart from the statutory breaches, no criterion is disclosed for the Executive to handpick which custodial death cases are to be enquired into by a Judicial Magistrate and which by an Executive Magistrate. Similarly, no criterion is disclosed for the Executive to handpick an Executive Magistrate to enquire into cases of custodial deaths. The law does not provide the State with the luxury of choice, nor does it allow the Executive to "pick and choose" its preferred forum for an inquiry into its own alleged transgressions. The statutory language is axiomatic, and the command is unequivocal. Despite this, the mandate of Parliament is being discarded with impunity by the authorities in the State of Jharkhand.

46. In such circumstances, this Court is constrained to hold that the present non-compliance is systemic in nature and cannot be brushed aside as a mere procedural irregularity or an isolated administrative lapse. There is a total failure by the Government of Jharkhand to

comply with the mandatory provisions of the law. Allowing these 262 inquiries to stand, or regarding them as substitutes for the legislatively mandated judicial enquiries, would validate a process that is void *ab initio* and permit the Executive to remain a judge in its own cause.

47. This institutional bypass constitutes a grave constitutional lapse, as it fundamentally violates the guarantees enshrined in Articles 14 and 21 of the Constitution of India. The protection of life and personal liberty under Article 21 is not an empty promise; rather, it mandates that any deprivation of life or investigation into its loss must strictly follow a "procedure established by law."

48. When the Executive ignores the judicial inquiry mandated by Parliament and substitutes it with its own administrative process, it renders that procedure a mere farce, stripping the deceased and their kin of their fundamental rights. Furthermore, the arbitrary selection of which cases receive a judicial inquiry and which are relegated to an executive inquiry is a direct violation of Article 14. Such "pick and choose" governance introduces a level of whim and caprice that is antithetical to equality before the law. In the eyes of this Court, a procedure that is not followed in the manner prescribed by law is no procedure at all; it is an act of administrative lawlessness.

49. The Courts world over have time and again emphasised that the history of liberty has largely been the history of the observance of procedural safeguards. These procedural safeguards are required to

be zealously watched and enforced by the Courts, and their rigour cannot be allowed to be diluted based on the nature of the alleged activities of the detenue (**Rekha v. State of Tamil Nadu, AIR 2011 SCW 2262**).

50. Therefore, a situation of such magnitude, as finally disclosed in the State's supplementary affidavit, cannot be left unnoticed or unaddressed by this Constitutional Court. As the *sentinel on the qui vive*, it is the solemn obligation of this Court to protect the constitutional fabric and ensure that the rule of law is not reduced to a dead letter. The Hon'ble Supreme Court has consistently affirmed that the Rule of Law constitutes the bedrock of a democratic society. [See **Erusian Equipment & Chemicals Ltd. v. State of W.B. reported in (1975) 1 SCC 70, Ramana Dayaram Shetty v. International Airport Authority of India, reported in (1979) 3 SCC 489, and Haji T.M. Hassan Rawther v. Kerala Financial Corpn. Reported in (1988) 1 SCC 166**].

51. The State's affidavits initially revealed that it was in a state of denial. After the records and figures were found to be too large and incriminating, a misconceived defiance was attempted by passing off enquiries by the executive branch as sufficient compliance with the statutory and constitutional mandate. If such systemic defiance is ignored, the entire legal system will lose the public confidence it commands, which could fracture the very foundation of our society. The common person's trust in the administration of justice is the only

anchor that prevents a descent into social chaos. Tolerating such systemic defiance or attempting to trivialise the situation would constitute a serious breach of this trust.

52. Accordingly, an inquiry is required to uncover the reasons for this systemic collapse and to determine how and why a mishap of this scale, namely the bypassing of mandatory judicial inquiries in hundreds of cases, was allowed to persist for years. It is imperative, even at this point, to identify, to the extent possible, the specific officials responsible for this institutional failure and to ascertain why they disregarded the parliamentary mandate and subverted the statutory process.

53. While the specific and consequential directions to remedy this administrative lapse, including the timeline for the submission of the report and the initiation of action against the erring authorities, shall be delineated in the operative portion of this judgment, it is sufficient to state here that the State cannot be permitted to remain a silent spectator to its own statutory violations.

54. In doing so, we must remain mindful of our responsibilities and duties. The judicial branch is an equal stakeholder in this process. Only when an efficient and timely inquiry is conducted by a Judicial Magistrate does a ray of hope remain, ensuring that in cases of unnatural custodial death, the perpetrators are identified and brought to justice. It is pertinent to note that such inquiries must be conducted in strict adherence to the guidelines and circulars issued by the

National Human Rights Commission (NHRC) from time to time. Needless to say, the mandate of Section 176(1-A) must be followed meticulously by all Magistrates, in both letter and spirit.

55. Having said that, upon perusing several magisterial inquiry reports submitted before this Court during these proceedings, we have observed a marked lack of clarity and uniformity in the structure and format of reports prepared by Magistrates across the State of Jharkhand. The required sensitivity and adherence to the NHRC guidelines and advisories were mostly lacking. The approach, unfortunately, was more to have the matter done away with rather than an attempt to find the truth of the circumstances of the custodial death.

56. Consequently, we are of the considered view that a more structured and uniform (though not a rigid one) practice must be adopted to enhance the legibility and legal efficacy of reports prepared under Section 176(1-A). To ensure a systematic presentation of the materials collected that enables efficient appreciation of the record, it is imperative that a standardised (though not a rigid) format be established for cataloguing witnesses, documents, and material objects. This institutionalised framework will facilitate better comprehension and immediate reference for all stakeholders. The specific modalities for the development and implementation of this standardised framework are accordingly detailed in the operative portion of this judgment.

57. At this juncture, we would also want to deal with the issue of compensation in cases of unnatural custodial deaths. The issue is no *res integra*, as the Hon'ble Apex Court, through a plethora of judgments, has explicitly recognised the rights of the kith and kin to be granted compensation. In the realm of public law, compensation is not merely a civil remedy but a tool for constitutional remediation when the State fails in its duty to protect the life of an individual in its custody. This right to monetary compensation is an inherent aspect of Article 21, serving as a balm to the bereaved family's suffering and as a deterrent to the high-handedness of state actors.

58. The Hon'ble Supreme Court, in landmark pronouncements such as **Rudul Sah v. State of Bihar, reported in (1983) 4 SCC 141, Nilabati Behera v. State of Orissa, reported in (1993) 2 SCC 746 , and D.K. Basu v. State of W.B., reported in (1997) 1 SCC 416**, has unequivocally laid down that the State is vicariously liable for the acts of its public servants, and the defence of sovereign immunity is entirely inapplicable in cases of fundamental right violations.

59. This legal mandate has been strictly enforced across various jurisdictions, with almost every High Court awarding compensation for unnatural deaths in custody. These constitutional courts have uniformly held that, whether the victim is an under-trial or a convict, their next of kin are legally entitled to compensation to redress the established invasion of human rights. Reference in this regard may be made to the dicta of the **Hon'ble Delhi High Court in Nina Rajan**

Pillai v. Union of India, reported in 2011 SCC OnLine Del 2252; the Hon'ble Bombay High Court in Kewalbai v. State of Maharashtra, reported in 2013 SCC OnLine Bom 773; the Hon'ble Gujarat High Court in Madhuben Adesara v. State of Gujarat, reported in 2016 SCC OnLine Guj 1956; and the Hon'ble Kerala High Court in Sabu E.K. v. State of Kerala, reported in 2016 SCC OnLine Ker 22210.

60. Be that as it may, it is an admitted reality that the doors of this Court are often practically inaccessible to every litigant for the purpose of seeking compensatory remedies. While a robust framework already exists in the form of District Victim Compensation Committees, we find that its potential is seldom realised in cases involving custodial deaths. The bereaved families of Under-Trial Prisoners (UTPs) or convicts who have suffered an unnatural death in judicial or police custody should not be compelled to undergo the rigours of Writ litigation to secure their fundamental right to compensation.

61. Accordingly, we are of the considered view that additional directions are required to activate and streamline this existing district-level machinery. By mandating that such claims be adjudicated directly by the District Victim Compensation Committees, under the chairpersonships of the Principal District and Sessions Judge, within a stipulated time frame, we aim to ensure that the administration of justice is decentralised and made accessible. This will ensure that relief is granted at the grassroots level itself, rather than forcing the

aggrieved to approach this Court for every instance of custodial negligence

62. Before parting, we would like to state that the directions issued hereinafter are formulated solely to ensure that the Rule of Law is never compromised. The vision of our constitutional makers can only be realised when the Executive and the Judiciary, though clearly demarcated by the Doctrine of Separation of Powers, work in tandem, strictly adhering to the laws, rules, and regulations within their respective constitutional domains. Such institutional discipline is the bedrock of an egalitarian society. It is only through the shared commitment of these organs to remain within their prescribed spheres that the rights of the common person can be truly protected, and the promises of the Constitution fulfilled.

63. Accordingly, we *dispose of this petition* by issuing the following directions:

- a) It is declared that an inquiry under S. 176(1-A) of the Cr.P.C. or S. 196(2) of the BNSS is required to be conducted by a Judicial Magistrate in accordance with the statutory mandate, and any inquiry conducted by an Executive Magistrate shall not operate as a substitute for such judicial inquiry.
- b) The Principal District Judge of the concerned district and the Principal Secretary, Department of Home, Prison & Disaster Management, are directed to enquire into and submit a compliance report before this Court **within six months of the**

date of this judgment, explaining the failure to have at least 262 cases of custodial deaths enquired into by the judicial magistrates, as required by the statutory mandate, and instead to have them enquired into only by the Executive Magistrates; to identify the specific officers responsible for such lapses; and to show cause why this Court should not recommend the initiation of departmental inquiries against the said officers.

- c) The Principal Secretary, Department of Home, Prison & Disaster Management, shall, **within two months from the date of this judgment**, prepare and circulate to all Principal District & Sessions Judges (including the Judicial Commissioner, Ranchi) a district-wise list of all custodial death cases from the year 2018 onwards in which inquiries were conducted by Executive Magistrates, including the 262 cases disclosed in the State's affidavit, along with copies of all existing records and reports.
- d) **Within 15 days of the receipt of such records**, the concerned Principal District & Sessions Judge (including the Judicial Commissioner, Ranchi) shall nominate a Judicial Magistrate for conducting a de-novo inquiry under S. 176(1-A) of the Cr.P.C. or Section 196(2) of the BNSS, as applicable. Such inquiries shall, as far as practicable, be completed **within six months from the date of nomination**.

- e) Upon conclusion of the inquiry, the report shall be forwarded to the NHRC and the Jharkhand State Human Rights Commission. This report shall be accompanied by a covering letter from the concerned District Magistrate or Superintendent of Police, explicitly clarifying that the judicial inquiry has been conducted to fulfil the statutory requirement under Section 176(1-A) Cr.P.C./Section 196(2) BNSS in place of the earlier executive inquiry.
- f) All Principal District & Sessions Judges (including the Judicial Commissioner, Ranchi) shall submit a consolidated compliance report regarding these *de-novo* inquiries before this Court within eight (08) months from the date of this judgment.
- g) The Chief Secretary and the Principal Secretary, Department of Home, Prison & Disaster Management, **shall, within thirty (30) days from the date of this judgment, issue a circular** to all District Magistrates and Superintendents of Police in the State, clarifying that jurisdiction under S. 176(1-A) of the Cr.P.C. or S. 196(2) of the BNSS vests solely and exclusively with Judicial Magistrates, and any future deviation shall be treated as a willful violation of statutory law and the conduct rules.
- h) The above-referred circular **must also apprise the concerned officials** that in every case of custodial death, disappearance, or custodial rape, the District Magistrate and/or Superintendent

of Police shall intimate the NHRC, the State Human Rights Commission, and the concerned Principal District Judge (P.D.J.) within twenty-four hours of the occurrence.

- i) Upon receipt of such intimation, the concerned P.D.J. (including the Judicial Commissioner, Ranchi), must nominate a Judicial Magistrate **within forty-eight hours of the intimation to conduct the inquiry**. The inquiry shall ordinarily be concluded within two months. In cases of delay, the specific reasons shall be recorded by the concerned Judicial Magistrate.
- j) All relevant records, including post-mortem reports, treatment records, CCTV footage, prisoner history, and allied materials, shall be supplied to the nominated Judicial Magistrate by the concerned Jail Superintendent or the Officer-in-Charge of the Police Station **within seven days** of the receipt of a requisition.
- k) The Director, Jharkhand Judicial Academy, shall, **within four months from the date of this judgment, prepare and circulate a Standard Operating Procedure (SOP)** and a model format for inquiry reports to all Judicial Officers in the State of Jharkhand. The SOP shall ensure the incorporation of NHRC guidelines and relevant judicial precedents to foster a uniform approach to judicial inquiries.

l) The State Government, in coordination with the Jharkhand Judicial Academy, shall consider organising an interdisciplinary conference/seminar involving Judicial Officers, District Magistrates, Superintendents of Police, Jail Authorities, and Medical Officers to ensure institutional synchronisation and effective compliance with the statutory mandate governing custodial death inquiries.

m) In cases where the inquiry report discloses unnatural death, custodial violence, or negligence, the concerned P.D.J. (including the Judicial Commissioner, Ranchi), as Chairperson of the District Victim Compensation Committee, shall *suo-motu* place the matter before the Committee for consideration of compensation under the applicable Victim Compensation Scheme, preferably within thirty days of the submission of the inquiry report.

64. It is further clarified that the above directions are not exhaustive.

Consequently, they shall in no manner preclude the respondent authorities from taking additional measures to ensure full compliance with the statutory mandate of Section 176(1-A) of the Cr.P.C. or Section 196(2) of the BNSS.

65. Let a copy of this judgment be forwarded forthwith to all the respondent authorities, the Principal District and Sessions Judges of all districts in the State of Jharkhand, including the Judicial Commissioner, Ranchi, the Director of the Jharkhand Judicial

Academy, and the District Magistrates and Superintendents of Police of all districts for immediate and necessary compliance. The institutional district heads are further directed to share this judgment with all Magistrates, whether Judicial or Executive, for their information and necessary action.

66. This petition stands disposed of in the above terms. Pending I.A.s, if any, will not survive and are disposed of. No costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

May 14th, 2026

A.F.R.

Manoj/Cp.2

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