

PIL No. 9 of 2017

Date of order: 03.03.2022

In Re Suo Motu Custodial
Violence & other matters relating Vs. State of Meghalaya & Ors.
to prison conditions

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Dr. N. Mozika, Amicus Curiae

For the Respondent(s) : Mr. S. Sengupta, Addl. Sr. GA with
Mr. A. Kharwanlang, GA
Mr. S.A. Sheikh, Adv. [For R 12]
Mr. S. Deb, Adv. [For R 19]

There appears to be a level of unwillingness in State functioning as would be apparent from the conduct of the State in this matter.

The present suo motu public interest litigation was instituted following a Supreme Court order of September 15, 2017 that, in effect, directed the identification of the next of kin of prisoners who had died an unnatural death from the period of 2012 for such relatives to be awarded suitable compensation, unless they had already been compensated.

Mr. N. Mozika, Sr. Adv. was appointed Amicus Curiae. Learned Amicus Curiae filed an affidavit affirmed on July 30, 2018 indicating that there were several unnatural deaths in custody since 2012, the earliest of them being in 2013. The list of unnatural deaths contains six names. The same affidavit contains a further list wherein eight names figure and, while such deaths were in custody, they have been claimed by the authorities to have been natural.

No report or reply of the State has been forthcoming to indicate whether all the unnatural deaths indicated in the list incorporated in the relevant affidavit were, indeed, incidents of unnatural death in custody. No attempt has been made by the State to assist the Court in further ascertaining whether those prisoners whose names appear in the second list in the relevant affidavit, died of natural causes. It is completely unacceptable in

any civilised system for the government not to be able to render adequate assistance to the Court in such regard.

The relevant order of the Supreme Court requires identification and award of compensation in deserving cases within reasonable time. The inertia on the part of the State for more than four years even to indicate which of the deaths may not have been unnatural and why, cannot be permitted to continue. An appropriate report listing all the cases of death of undertrials or convicts in custody since 2012, anywhere in the State, should be furnished without exception. In all cases, whether the death was natural or unnatural should be indicated. Since there is a presumption that when a person dies in custody, it may be taken to be unnatural, the grounds for the State to perceive that some of the deaths may have been natural should also find place in the report. The exercise has to be completed and the report filed, peremptorily, within three weeks from date. The Inspector-General of Prisons or the appropriate person manning such post or ultimately responsible for all correctional homes in the State will remain personally liable in such regard.

Let the matter appear four weeks hence.

List on March 31, 2022.

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
03.03.2022
"Sylvana PS"