

IN THE HIGH COURT OF JHARKHAND AT RANCHI

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

Md. Mumtaz Ansari

..... Petitioner

Versus

State of Jharkhand, through Chief Secretary, Ranchi & Others

..... Respondents

CORAM

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner:

Md. Shadab Ansari, Advocate

For the State:

Mr. Gaurav Raj, A.C. to A.A.G.-II

15/16.02.2026

1. Heard learned counsel for the parties.
2. The present writ petition seeks a direction upon the respondents to conduct judicial inquiry in every case 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 Section 176 (1-A) of Cr.P.C.
3. Section 176(1-A) of Cr.P.C. reads as follows :-

"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 offences has been committed."

4. Section 196 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 which could be regarded as the corresponding provision under the BNSS reads as follows :-

"196. 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 194, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 194, 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.

(2)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 Sanhita in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Magistrate within whose local jurisdiction the offence has been committed.

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

(4)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.

(5)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.

(6)The Magistrate or the Executive Magistrate or the police officer holding an inquiry or investigation under sub-section (2) 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."

5. In the present case, Mrs. Vandana Dadel, Principal Secretary, Department of Home, Prison and Disaster Management, Government of Jharkhand has filed an affidavit. She has enclosed a chart indicating that between the years 2018 to 2025, there have been around 437 deaths in police or judicial custody. This chart contains a column furnishing information whether the factum of death was brought to the notice of the Magistrate. However, in most of these 437 cases, no details have been provided whether an inquiry was held by the Judicial Magistrate, even though a person may have died in police or judicial custody.

6. Section 176(1-A) of Cr.P.C. inter-alia provides that where any person dies or disappears or while such person 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 within whose local jurisdiction the offence has been committed.
7. Therefore, information about whether any inquiry was held by the Judicial Magistrate in relation to these 437 deaths is crucial. We thus direct the Home Secretary, Government of Jharkhand, to file an affidavit providing this information. If no inquiry is held by the Judicial Magistrate in addition to the inquiry or the investigation held by the police, the details of such cases may be disclosed in the said affidavit. The affidavit must also address compliance with the corresponding provisions of the BNSS. This is because the data supplied includes deaths in custody from 2023 to 2025.
8. The affidavit must also indicate whether the National Human Rights Commission (NHRC) Guidelines were taken into account for dealing with these cases of custodial death. All this is necessary because the affidavit filed or the chart accompanying the affidavit is not clear whether the cause of death has been determined by the police authorities themselves or whether the same is a result of any judicial inquiry as is contemplated under the law. Further, considering the number of deaths, it is crucial to see whether the safeguards provided under the law to rule out foul play were duly complied with or not.
9. Learned counsel for the petitioner submitted that in most of the cases, no judicial inquiries were held. He further submitted that none of the relatives of the deceased was informed of the inquiries,

if any, nor were they allowed to participate in such inquiries. He submitted that the number of custodial deaths is abnormally excessive and therefore the executive/police authorities must be directed to comply with the mandate of the law since it provides for safeguards to rule out foul play in matters of custodial deaths.

10. The Home Secretary, Government of Jharkhand, must file the affidavit with full details by 13.03.2026, after serving an advance copy thereof on the learned counsel for the petitioner. List this matter for further consideration on 19.03.2026.

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

(RAJESH SHANKAR, J.)

16.02.2026
Satish/Vikas/