



2026:AHC:47174-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 1332 of 2026

Sandeep Audichya

.....Petitioner(s)

Versus

State of U.P. and others

.....Respondent(s)

Counsel for Petitioner(s)	:	Hanuman Prasad Mishra
Counsel for Respondent(s)	:	G.A.

Court No. - 44

HON'BLE J.J. MUNIR, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

1. Heard Mr. Hanuman Prasad Mishra, learned Counsel for the petitioner and Mr. Jitendra Kumar Jaiswal, learned Additional Government Advocate appearing on behalf of the State.

2. The petitioner has come up with a prayer that his representation dated 19.08.2025, moved before the Superintendent of Police, Farrukhabad, be decided in a time-bound manner.

3. Prayers made by litigants and directions often issued by this Court to authorities to decide representations made by litigants have rendered this Court virtually powerless, where the authorities seem to think that all we can do under Article 226 of the Constitution is to ask them to decide cases or take decisions, instead of deciding the *lis* ourselves and passing orders. Quite apart, this leads to a deluge of writ petitions being instituted before this Court, where, we are not required to decide anything. This writ petition is an instance of the same kind.

4. Under sub-Section (4) of Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short), if the officer-in-charge of a police station refuses to record an information relating to the commission

of a cognisable offence, it is open to the informant to send substance of the information in writing and by post to the Superintendent of Police concerned, who is obliged, upon receipt of such information, if it discloses the commission of a cognisable offence, either to investigate the offence himself/herself or direct investigation to be undertaken by any police officer subordinate to him in the manner prescribed under the BNSS. If the S.P. is also derelict in the sense that he/she does not pass orders on an application under Section 173 BNSS, the remedy is before the Judicial Magistrate under sub-Section (3) of Section 175 BNSS. The Judicial Magistrate, if moved through an application supported by an affidavit under sub-Section (4) Section 173 BNSS, after making such inquiry, as he/she thinks necessary and submission of a report by the police officer in the matter, may order investigation by the Police. In the circumstances, the remedy of the petitioner is to move the Judicial Magistrate concerned through an application under Section 174(3) BNSS.

5. We are aware of the fact that in the districts, applications, sometimes, not always, made to Magistrates, which direct investigations to be made by the Police, particularly uncomfortable ones, lead to frowns by what are called "superior officers of the Police", who resort to measures to browbeat Magistrates. If that happens or has happened in a particular case is no ground for a litigant not to move the Magistrate in the exercise of his jurisdiction under Section 175(3) BNSS to direct the Police to investigate a case. The Magistrate also should not feel hesitant in passing necessary orders, merely because at some point of time, a high-handed police officer has caused some inconvenience to the Magistrate. If, in fact, any kind of embarrassment or pressure from any police officer is faced by the Magistrate, it is always open to him/her to make a

contempt reference to this Court.

6. In this view of the matter, so far as this petition is concerned, in the face of a statutory alternative remedy, there is absolutely no warrant for this Court to interfere.

7. This petition is, accordingly, summarily **dismissed**, with the clarification that the petitioner shall have his remedy under the BNSS open to him to seek registration of the First Information Report by moving the competent Magistrate.

8. The Registrar (Compliance) is directed to communicate this order to the Superintendent of Police, Farrukhabad and the Station House Officer, Police Station Kotwali, Farrukhabad, both through the learned Chief Judicial Magistrate, Farrukhabad.

(Vinai Kumar Dwivedi,J.) (J.J. Munir,J.)

March 9, 2026

I. Batabyal