

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

INDEX

IN

CRIMINAL MISC. WRIT PETITION (PIL) NO. 13160 OF 2012
(Under Article 226 of the Constitution of India)

(DISTRICT :: DEORIA.)

People's Vigilance Committee for Human Right
and another.

...Petitioners.

Versus

State of U.P. & others.

...Respondents.

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| 8. | Photocopy of the news report published in 'Dainik Jagran' on the death of the convicted prisoner namely Kripal. | 31.03.2012 | (5) | |
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(K.K. Roy) (Nasiruddin Warsi),
 Advocates,
 Counsels for the Petitioners,
 Lawyers Chamber No. 122,
 High Court, Allahabad.

Dated : August, 2012

* * * * *

IN

(DISTRICT :: DEORIA.)

...Petitioners.

State of U.P. & others.

...Respondents.

| <u>Dates</u> | <u>Events</u> |
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| | The present Public Interest Litigation has been filed to bring to the kind notice of this Hon'ble Court, the incident of negligence in providing proper and timely medical treatment, torture, third degree, assault and maltreatment to the prisoners in the different jails of Uttar Pradesh. |
| | The husband of the Petitioner No. 2 is also the tragic victim of the insensitiveness of the jail authority who not only did not provide any medical aid to the 75 years old convicted prisoner, but also he was subjected to unfair treatment from the jail authority which caused his death on 14.10.2010 when he was languishing in Deoria district. |
| | The late Barsati was convicted in a criminal case in S.T. No. 169 of 1999, under Section 498-A 7 304-B I.P.C. for life imprisonment. His criminal appeal filed before this Hon'ble Court as appeal No. 43/46 of 2009 was partly allowed and sentence awarded by the trial Court to accused Barsati under |

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| | Section 498-A I.P.C. is only affirmed. |
| 07.10.2010 | Since the husband of Petitioner No. 2 himself about 75 years old and due to Diaria and omitting, he was ill. An application was moved on behalf of jail authorities that condition of husband of Petitioner No. 2 being informed to the Court of Chief Judicial Magistrate. |
| 14.10.2010 | A letter was sent to Gulab, S/o Barsati by the Superintendent of Jail, District Jail, Deoria informing him that his father has expired during treatment in District Hospital, Deoria. |
| 14.10.2010 | The postmortem was done of wife of Petitioner No. 2- Barsati on 14.10.2010, a perusal of the postmortem report would disclose that the cause of death is not that as stated by the Jail authorities. |
| 13.10.2010 | Son of the Petitioner No. 2 namely Gulab Ansari when asked the relevant records with regard to death of his father from Chief Medical Superintendents Civil Hospital Deoria, a certificate was issued by Chief Medical Superintendent District Hospital, Deoria stating that on 13.10.2010 at 4 p.m. was admitted in the District Hospital, Deoria and on the same day i.e. on 13.10.2010 at about 8.45 p.m. he was referred from Hospital to B.R.D. Medical College, Gorakhpur. |
| | Thus it is absolutely clear that jail authorities acted foul and they did not take any steps to admit husband of Petitioner No. 2 at B.R.D. Medical College, Gorakhpur. |
| | It is also clear that once husband of Petitioner No. 2 was ill on 07.10.2010 while the jail authorities admitted him in Hospital on 13.10.2010. Further more due to this negligence and lack of medical treatment he died on the same day. |
| | The tragic and sad story of the death of Barsati would |

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| | disclose that the life of a prisoner has no meaning to the jail authorities and they all live on the mercy of their luck. |
| 31.03.2012 | A report was published in 'Dainik Jagran' Allahabad edition that a prisoner undergoing life imprisonment namely Kripal, who was 80 years old also died in the jail premises and it was declared that he died of heart-attack. |
| 11.03.2012 | A news report has published in 'Dainik Jagran' Allahabad edition that one prisoner Bansi Lal Lodi who are undergoing 10 years imprisonment in Naini Central Jail was strangled to death and before being killed, he was subjected to unnatural sexual intercourse. The jail authorities had at first declared it as a suicide, but after the postmortem, it was found to be a murder by strangulation. |
| 02.05.2012 | A news item has published in 'Amar Ujala' about the assault of a prisoner who was compelled to undergo fast against a series of irregularities and corruption prevailing in the Central Jail, Naini. The news contained the fact that the Firoz is undergoing fast for indefinite period for 25 th of March, 2012. |
| | These are the instance which demonstrates that jail authorities and employees are not complying with the jail manual and various government orders. |
| | The wife of late Barsati had filed a Writ Petition as Criminal Misc. Writ Petition No. 8851 of 2011. |
| | During the argument in the Writ Petition, a question was raised by the Hon'ble Court that the court cannot award compensation if it is not presented as the Public Interest Litigation and advise the counsel to withdraw the Petition. |
| 18.05.2011 | Accordingly on the request of the Counsel of the Petitioner, the Writ Petition was withdrawn, but due to inadvertence, no request could be made seeking permission to get the |

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| | liberty of filing the fresh petition on the same cause of action. |
| | The present petition raises the incidents of the deaths of a series of prisoners in the jails of the Uttar Pradesh due to lack of treatment, non providing the proper and timely medical aid, physical assault and torture and the case of Barsati has also been included as the incident in which the cause of death does not appear as declared by the jail authorities. |
| | The Chapter 3 of the U.P. Jail Manual deals with the admission of the Petitioners in the jail and as per para 20 of the Manual, every prisoner on rival at the main gate is examined carefully by the Assistant Medical Officer in the presence of the Jailer or other officer on duty. |
| August,2012 | Hence the Present Writ Petition filed by the Petitioners. |

(K.K. Roy) (Nasiruddin Warsi),
 Advocates,
 Counsels for the Petitioners,
 Lawyers Chamber No. 122,
 High Court, Allahabad.

Dated : August, 2012

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. STAY APPLCIATION No. of 2012
(Under Chapter XXII Rule 1 of the High Court Rules)

On behalf of :-

People's Vigilance Committee for Human Right
and another.

.....Applicants/Petitioners.

IN

CRIMINAL MISC. WRIT PETITION (PIL) NO. OF 2012
(Under Article 226 of the Constitution of India)

(DISTRICT :: DEORIA.)

1. People's Vigilance Committee for Human Right (PVCHR),
Through its President Lenin Raghuvanshi,
R/o S-A 4/2A, Daulatpur,
Varanasi.
2. Sobratna,
Wife of Late Barsati Ansari,
Resident of Jataha Road,
(Indira Nagar), Padrauna,
District Kushi Nagar.

...Petitioners.

Versus

1. State of U.P.
Through the Principal Secretary (Home),
Secretariat, Government of U.P.,
Lucknow.
2. Director General (Prison),
U.P., Lucknow.
3. Jail Superintendent,
District Jail,
Deoria.
4. Chief Medical Officer,
District Hospital,
Deoria.

.....Respondents.

To,

The Hon'ble the Chief Justice and his other companion Judges of the
aforesaid court.

The humble application on behalf of above named, Applicants/
Petitioners, Most Respectfully Showeth as under:

1. That the full facts and circumstances of the case have been stated in
the accompanying (PIL) writ petition, which forms part of this
application.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court
may graciously be pleased to direct the Respondent No. 1 to conduct
an enquiry into the custodial death of Barsati and also about the
conditions of the ailing prisoners in the Central and District Jails of
Uttar Pradesh and submits its report before the Hon'ble Court within
the stipulated time, and/or pass such other and further order which this
Hon'ble Court may deem fit and proper in the nature and
circumstances of the case.

(K.K. Roy) (Nasiruddin Warsi),
Advocates,
Counsels for the Applicants/Petitioners,
Lawyers Chamber No. 122,
High Court, Allahabad.

Dated : August, 2012

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION (PIL) NO. OF 2012
(Under Article 226 of the Constitution of India)

(DISTRICT :: DEORIA.)

1. People's Vigilance Committee for Human Right (PVCHR),
 Through its President Lenin Raghuvanshi,
 R/o S-A 4/2A, Daulatpur,
 Varanasi.
2. Sobratna,
 Wife of Late Barsati Ansari,
 Resident of Jataha Road,
 (Indira Nagar), Padrauna,
 District Kushi Nagar.

...Petitioners.

Versus

1. State of U.P.
 Through the Principal Secretary (Home),
 Secretariat, Government of U.P.,
 Lucknow.
2. Director General (Prison),
 U.P., Lucknow.
3. Jail Superintendent,
 District Jail,
 Deoria.
4. Chief Medical Officer,
 District Hospital,
 Deoria.

.....Respondents.

To,

The Hon'ble the Chief Justice and his other companion Judges of the
aforesaid court.

The humble application on behalf of above named, Petitioners, Most
Respectfully Showeth as under:

1. That this is the first (PIL) Writ Petition being filed on the present cause of action and no other Petition of any kind has been filed by or on behalf of the Petitioners for the same or similar relief.
2. That no copy of the caveat application has been received by the Petitioners nor Petitioners have any knowledge regarding filing of any caveat application on behalf of any of the Respondents.
3. That the Petitioners have no ill-will of prejudice towards anyone and he is not prejudiced in filing the present Public Interest Litigation.
4. That the Petitioners are not filing this petition to benefit themselves or to harm any person or institution.
5. That the Petitioners are not filing this Public Interest Litigation at the behest of some other persons to fulfill their other motives.
6. That the Petitioners are not filing this Public Interest Litigation for any personal interest or personal gain.

7. That the present Public Interest Litigation has been filed to bring to the kind notice of this Hon'ble Court, the incident of negligence in providing proper and timely medical treatment, torture, third degree, assault and maltreatment to the prisoners in the different jails of Uttar Pradesh.
8. That the husband of the Petitioner No. 2 is also the tragic victim of the insensitiveness of the jail authority who not only did not provide any medical aid to the 75 years old convicted prisoner, but also he was subjected to unfair treatment from the jail authority which caused his death on 14.10.2010 when he was languishing in Deoria district.
9. That the late Barsati was convicted in a criminal case in S.T. No. 169 of 1999, under Section 498-A 7 304-B I.P.C. for life imprisonment. His criminal appeal filed before this Hon'ble Court as appeal No. 43/46 of 2009 was partly allowed and sentence awarded by the trial Court to accused Barsati under Section 498-A I.P.C. is only affirmed.
10. That since the husband of Petitioner No. 2 himself about 75 years old and due to Diaria and omitting, he was ill. An application was moved on behalf of jail authorities that condition of husband of Petitioner No. 2 being informed to the Court of Chief Judicial Magistrate. A copy of the said application dated 07.10.2010 is being filed herewith and marked as **Annexure No. 1** to this Writ Petition.

11. That on 14.10.2010, a letter was sent to Gulab, S/o Barsati by the Superintendent of Jail, District Jail, Deoria informing him that his father has expired during treatment in District Hospital, Deoria. A photocopy of the letter dated 14.10.2010 sent by the Superintendent, District Jail, Deoria to the Gulab is being filed herewith and marked as **Annexure No. 2** to this Writ Petition.
12. That the postmortem was done of wife of the Petitioner No. 2-Barsati on 14.10.2010, a perusal of the postmortem report would disclose that the cause of death is not that as stated by the Jail authorities. A photocopy of the postmortem report of the Barsati done on 14.10.2010 is being filed herewith and marked as **Annexure No. 3** to this Writ Petition.
13. That son of the Petitioner No. 2. namely Gulab Ansari when asked the relevant records with regard to death of his father from Chief Medical Superintendents Civil Hospital Deoria, a certificate was issued by Chief Medical Superintendent District Hospital, Deoria stating that on 13.10.2010 at 4 p.m. was admitted in the District Hospital, Deoria and on the same day i.e. on 13.10.2010 at about 8.45 p.m. he was referred from Hospital to B.R.D. Medical College, Gorakhpur. A true copy of the said certificate dated 13.10.2010 is being filed herewith and marked as **Annexure No. 4** to this Writ Petition.

14. That thus it is absolutely clear that jail authorities acted foul and they did not take any steps to admit husband of Petitioner No. 2 at B.R.D. Medical College, Gorakhpur.
15. That it is further clear that husband of Petitioner No. 2 died at District Hospital, Deoria due to lack and negligence of care and medical treatment.
16. That it is also clear that once husband of Petitioner No. 2 was ill on 07.10.2010 while the jail authorities admitted him in Hospital on 13.10.2010. Further more due to this negligence and lack of medical treatment he died on the same day.
17. That the tragic and sad story of the death of Barsati would disclose that the life of a prisoner has no meaning to the jail authorities and they all live on the mercy of their luck.
18. That on 31.03.2012, a report was published in 'Dainik Jagran' Allahabad edition that a prisoner undergoing life imprisonment namely Kripal, who was 80 years old also died in the jail premises and it was declared that he died of heart-attack. A photocopy of the news report dated 31.03.2012 published in 'Dainik Jagran' on the death of the convicted prisoner namely Kripal is being filed herewith and marked as **Annexure No. 5** to this Writ Petition.

19. That on 11.03.2012, a news report has published in 'Dainik Jagran' Allahabad edition that one prisoner Bansi Lal Lodi who are undergoing 10 years imprisonment in Naini Central Jail was strangled to death and before being killed, he was subjected to unnatural sexual intercourse. The jail authorities had at first declared it as a suicide, but after the postmortem, it was found to be a murder by strangulation. A photocopy of the news report published in 'Dainik Jagran' on 11.03.2012 is being filed herewith and marked as **Annexure No. 6** to this Writ Petition.
20. That on 2nd of May, 2012, a news item has published in 'Amar Ujala' about the assault of a prisoner who was compelled to undergo fast against a series of irregularities and corruption prevailing in the Central Jail, Naini. The news contained the fact that the Firoz is undergoing fast for indefinite period for 25th of March, 2012. A photocopy of the relevant extract of the news report published on 02.05.2012 in Hindi daily 'Amar Ujala' is being filed herewith and marked as **Annexure No. 7** to this Writ Petition.
21. That these are the instance which demonstrates that jail authorities and employees are not complying with the jail manual and various government orders.

22. That the wife of late Barsati had filed a Writ Petition as Criminal Misc. Writ Petition No. 8851 of 2011 with the following prayer :

- “(i) issue a writ, order or direction in the nature of mandamus directing the Respondents to pay compensation of Rs. 5 lacs to the Petitioner due to death of her husband namely Barsati due to careless and negligence on the part of jail authorities.
- (ii) issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case;
- (iii) award the costs of the writ in favour of Petitioner.”

23. That during the argument in the Writ Petition, a question was raised by the Hon'ble Court that the court cannot award compensation if it is not presented as the Public Interest Litigation and advise the counsel to withdraw the Petition.

24. That accordingly on the request of the Counsel of the Petitioner, the Writ Petition was withdrawn, but due to inadvertence, no request could be made seeking permission to get the liberty of filing the fresh petition on the same cause of action. A photocopy of the order dated 18.05.2011 passed in Criminal Misc. Writ Petition No. 8851 of 2011 (Sobaratana Vs. State of U.P. & others) by this Hon'ble Court is being filed herewith and marked as **Annexure No. 8** to this Writ Petition.

25. That the present petition raises the incidents of the deaths of a series of prisoners in the jails of the Uttar Pradesh due to lack of treatment, non providing the proper and timely medical aid, physical assault and torture and the case of Barsati has also been included as the incident in which the cause of death does not appear as declared by the jail authorities.
26. That the Chapter 3 of the U.P. Jail Manual deals with the admission of the Petitioners in the jail and as per para 20 of the Manual, every prisoner on rival at the main gate is examined carefully by the Assistant Medical Officer in the presence of the Jailer or other officer on duty.
27. That as per para 21 of the U.P. Jail Manual, whenever any admitted prisoner is reported as suffering from simple or grievous hurt as defined in Section 319 and 320 of the Indian Penal Code, an injury report in Form No. 8 is completed with the least possible delay.
28. That as per the para 22 of the U.P. Jail Manual, the Superintendent of the Jail shall report at once to the District Magistrate full particulars of any recent injuries, wounds, contusions or abrasion found on the person of any prisoner which appear to be due to violence and which are not explained by the nature of the case in which the prisoner is accused or convicted.

29. That as per para 25 of the U.P. Jail Manual, every convict shall be brought for examination fully equipped with clothing before the Medical Officer, who shall enter in the admission register, the State of Health of the convict.
30. That in view of the facts and circumstances stated above, it is expedient in the interest of justice that this Hon'ble Court may be pleased to direct the Respondent No. 1 to conduct an enquiry into the custodial death of Barsati and also about the conditions of the ailing prisoners in the Central and District Jails of Uttar Pradesh and submits its report before the Hon'ble Court within the stipulated time.
31. That the Petitioners have no any other efficacious alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India.
32. That the Petitioners are filing the instant (PIL) writ petition inter-alia on the following amongst other grounds :-

GROUND S

- i) **BECAUSE**, thus it is absolutely clear that jail authorities acted foul and they did not take any steps to admit husband of Petitioner No. 2 at B.R.D. Medical College, Gorakhpur.

- ii) **BECAUSE**, it is further clear that husband of Petitioner No. 2 died at District Hospital, Deoria due to lack and negligence of care and medical treatment.
- iii) **BECAUSE**, it is also clear that once husband of Petitioner No. 2 was ill on 07.10.2010 while the jail authorities admitted him in Hospital on 13.10.2010. Further more due to this negligence and lack of medical treatment he died on the same day.
- iv) **BECAUSE**, the tragic and sad story of the death of Barsati would disclose that the life of a prisoner has no meaning to the jail authorities and they all live on the mercy of their luck.
- v) **BECAUSE**, these are the instance which demonstrates that jail authorities and employees are not complying with the jail manual and various government orders.
- vi) **BECAUSE**, the present petition raises the incidents of the deaths of a series of prisoners in the jails of the Uttar Pradesh due to lack of treatment, non providing the proper and timely medical aid, physical assault and torture and the case of Barsati has also been included as the incident in which the cause of death does not appear as declared by the jail authorities.

- vii) **BECAUSE**, the Chapter 3 of the U.P. Jail Manual deals with the admission of the Petitioners in the jail and as per para 20 of the Manual, every prisoner on arrival at the main gate is examined carefully by the Assistant Medical Officer in the presence of the Jailer or other officer on duty.
- viii) **BECAUSE**, as per para 21 of the U.P. Jail Manual, whenever any admitted prisoner is reported as suffering from simple or grievous hurt as defined in Section 319 and 320 of the Indian Penal Code, an injury report in Form No. 8 is completed with the least possible delay.
- ix) **BECAUSE**, as per para 22 of the U.P. Jail Manual, the Superintendent of the Jail shall report at once to the District Magistrate full particulars of any recent injuries, wounds, contusions or abrasion found on the person of any prisoner which appear to be due to violence and which are not explained by the nature of the case in which the prisoner is accused or convicted.
- x) **BECAUSE**, as per para 25 of the U.P. Jail Manual, every convict shall be brought for examination fully equipped with clothing before the Medical Officer, who shall enter in the admission register, the State of Health of the convict.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to :-

- i) issue a writ, order or direction in the nature of **MANDAMUS** commanding/directing the Respondent No. 1 to conduct an enquiry into the custodial death of Barsati and also about the conditions of the ailing prisoners in the Central and District Jails of Uttar Pradesh and submits its report before the Hon'ble Court within the stipulated time.
- ii) issue a writ, order or direction in the nature of **MANDAMUS** commanding/directing the Respondents to pay compensation to the widow of Barsati for his custodial death in District Jail, Deoria.
- iii) issue a writ, order or direction in the nature of **MANDAMUS** commanding/directing the Respondent No. 1 to punish the guilty jail officials for the custodial death of Barsati in District Jail, Deoria.
- iv) issue a writ, order or direction in the nature of **MANDAMUS** commanding/directing the Respondent No. 1 & 2 to ensure the proper, effective and timely treatment of the prisoners suffering from diseases.

- v) issue such other writ, order or directions as this Hon'ble Court may deem fit and proper having regard to the facts and circumstances of the case; AND
- vi) to award cost of the Petition to the Petitioners.

(K.K. Roy) (Nasiruddin Warsi),
Advocates,
Counsels for the Petitioners,
Lawyers Chamber No. 122,
High Court, Allahabad.

Dated : August, 2012

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

A F F I D A V I T

IN

CRIMINAL MISC. WRIT PETITION (PIL) NO. OF 2012
(Under Article 226 of the Constitution of India)

(DISTRICT :: DEORIA.)

People's Vigilance Committee for Human Right
and another.

...Petitioners.

Versus

State of U.P. & others.

...Respondents.

Affidavit of : Lenin Raghuvanshi,
Aged about 48 years, Son of
President of People's Vigilance
Committee for Human Right
(PVCHR)-Petitioner No. 1
Organization, Resident of S-A 4/2A,
Daulatpur, Varanasi. Hindu by
religion, Occupation : Social Worker.

.....Deponent.

I, the deponent above named, do hereby solemnly affirm
and state on oath as under :

1. That the deponent is the President of the Petitioner No. 1 organization and he is the deponent in the present writ petition and also he is well conversant with the facts deposed to below.

I, the deponent above named, do hereby swear and declare that the contents of paragraph No. 1 of this Affidavit and those contents of paragraphs No.

of the accompanying Writ Petition are true to my personal knowledge; those of paragraph Nos.

of the accompanying Writ Petition are based on the record of the case; those of paragraph Nos.

of the accompanying Writ Petition are based on the information received from

and those of paragraph Nos.

of the accompanying Writ Petition are based on legal advice, which all I believe to be true and correct, no part of it is false and nothing material has been concealed in it.

So help me God.

(Deponent)

I, **Nasiruddin Warsi, Advocate**, Chamber No. 122, New Building, Allahabad, Enrollment No. U.P.-1974/93, do hereby declare that the person, making this affidavit and alleging himself to be deponent is known to me from the papers produced by him before me

in the instant case and I am satisfied that he is the same person making this affidavit.

(Advocate)

Solemnly affirmed before me on this ____day of August, 2012 at about _____a.m./p.m. by the deponent who has been identified by the aforesaid Advocate.

I have satisfied myself by examining the deponent that he understands the contents of this Affidavit fully well, which has been read over and explained to him.

(Oath Commissioner)

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. (8)

IN

CRIMINAL MISC. WRIT PETITION (PIL) NO. OF 2012
(Under Article 226 of the Constitution of India)

(DISTRICT :: DEORIA.)

People's Vigilance Committee for Human Right
and another.

...Petitioners.

Versus

State of U.P. & others.

...Respondents.
