

**Court No. - 3**

**Case :-** WRIT - C No. - 26299 of 2022

**Petitioner :-** Neeraj Dubey

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** K.S. Tiwari, Vivek Tiwari

**Counsel for Respondent :-** C.S.C.

**Hon'ble Surya Prakash Kesarwani, J.**

**Hon'ble Saurabh Srivastava, J.**

Heard Shri K.S. Tiwari, learned counsel for the petitioner.

Learned counsel for the petitioner states that he may be permitted to delete the relief no. (ii) in as much as that relief may be sought by the petitioner in a Criminal Misc. Writ Petition or in some appropriate proceedings.

We permit the petitioner to delete the relief no. (ii) with liberty to avail such remedy as may be available to him under law.

This writ petition has been filed praying for the following relief:

*"(i) issue a writ, order or direction in the nature of mandamus directing the respondent no. 6 i.e. Nominated Officer/Additional District Magistrate (Judicial) Sonbhadra to make a fair inquiry with respect to the custodian death of father of the petitioner, ie. Sudhakar Prasad Dubey within a stipulated period as fixed by this Hon'ble Court.*

*(iii) issue a writ, order or direction in a suitable nature commanding the respondent No. 2, District Magistrate, Sonbhadra to award compensation to the petitioner in lieu of custodian death of father of the petitioner."*

Briefly stated undisputed facts in the present case are that pursuant to recovery certificate forwarded by the Union Bank of India, Branch-Roberstganj, District-Sonebhadra for Rs. 10,21,351.80 against the deceased Sudhakar Prasad Dubey son of Radhey Shyam Dubey Proprietor of Ms Dubey Electronics, Kasba, Robertsganj, District-Sonbhadra, the aforesaid Sudhakar Prasad Dubey was arrested on 12.05.2022 by the Collection Amin and the Tehsildar, Tehsil-,Robertsganj, District-Sonbhadra. He was kept in the revenue lock-up Robertsganj from 12.05.2022 till he died on 19.05.2022. Since, the District Magistrate Sonebhadra vide Order No. 611 dated 23.05.2022 directed for conducting **an inquiry for ascertaining the reasons of the custodial death of Sudhakar Prasad Dubey** and for that purpose nominated Shri Pramod Kumar Tiwari, Sub Divisional Magistrate (Headquarter) Sonebhadra.

Pursuant to the aforesaid order of the District Magistrate, the Sub Divisional Magistrate (Headquarter) Sonebhadra issued a public notice vide letter no. 391 dated 27.05.2022 requiring public and family members of the deceased to give their statement on any working day between 10.00 am. to 4.00 pm.

Pursuant to the aforesaid public notice several persons including the following persons gave their statement in writing before the aforesaid Sub Divisional Magistrate:-

a) Neeraj Dubey s/o of late Sudhakar Dubey resident of Dharamshala Chowk, Kasba Robertsganj, Police Station & Tehsil-Robertsganj, District-Sonbhadra dated 15.06.2022.

b) Heera Lal s/o Ram Shakal dated 15.06.2022 resident of Village-Khairahi, P.S.-Robertsganj, District-Sonbhadra.

c) Vikas Shakya s/o Sri Indra Mani Kushwaha resident of Vikas Nagar Colony, District-Sonebhadra dated 15.06.2022.

Since, the respondent authorities are totally non serious about the inquiry and in fact were making every effort to delay and to bury the entire matter, therefore, the petitioner submitted a representation dated 14.06.2022 before the aforesaid Sub Divisional Magistrate (Headquarter) Sonebhadra, representation dated 27.05.2022 before the Principal Secretary (Home) Government of U.P., Lucknow, representation dated 27.05.2022 before the Director General of Police, Lucknow and representation dated 27.05.2022 before the Superintendent of Police Sonebhadra supported by affidavit. These representation were sent through registered/speed post. The aforesaid representations were followed by another representation dated 15.06.2022 to the Sub Divisional Magistrate (Headquarter) Sonebhadra and representation dated 20.06.2022 to the District Magistrate, Sonebhadra.

Despite the aforesaid representations, neither the inquiry was proceeded with nor any action was taken by the respondents either against the erring officers and employees or for payment of compensation for custodial death.

What the respondent did was that the aforesaid Sub Divisional Magistrate merely issued another letter dated 18.06.2022 similar to the earlier letter dated 27.05.2022 and thereafter the District Magistrate Sonebhadra issued an order no. 719 dated 27.05.2022 appointing one Shri Anuj Pratap Additional District Magistrate (Judicial) as Magistrate for inquiry on the ground that the earlier Magistrate appointed for inquiry has been on long leave. From the record it appears that the ADM (Judicial) has also not taken any action.

The custodial death was caused on 19.05.2022. The representations of the petitioner prima facie show that not only gross negligence and illegal acts of the respondents, but also total absence of sensitiveness to the inquiry and action to be taken against officers/officials who were prima facie responsible for the custodial death of the aforesaid Sudhakar Prasad Dubey.

The representations and the facts as have been brought on record, also show that Revenue Lock-up at the Tehsil or Headquarter of the District where the deceased was kept, was not having even basic facilities/amenities required for human being. Facts of the present case prima facie show violation of fundamental rights

guaranteed under Article 14 and 21 of the Constitution of India. More than 3 months have passed, but the authorities from the District Level to the State Level have not shown any sensitiveness to their statutory and constitutional duties.

The conduct of the respondents from District level to the State level prima facie appears to be gross misconduct and dereliction in duty on one hand and on the other hand gross abuse of power adversely affecting the rule of law.

Prima facie such conduct of the respondents needs to be dealt with strictly so that rule of law may prevail.

Prima facie, it appears that prevailing situation of Revenue Lock -up at the Tehsil or Headquarter Level of the District needs to be examined and remedial steps needs to be taken by the State Government within a time bound period so as to provide basic amenities in such lock-ups to protect fundamental rights of people under Article 21 of the Constitution of India and to take immediate action against the erring officers and employees so as to show bonafide of the State Government.

Considering the facts and circumstances of the case, we direct the respondents to file a counter affidavit by means of personal affidavit of the respondent no. 1 in which they shall also showcause in the light of the observations made in the body of this order.

Put up as fresh case at 10.00 am. on **12.09.2022**.

Learned Standing Counsel shall communicate this order in writing within 48 hours to the Chief Secretary and Additional Chief Secretary (Home), Government of U.P. Lucknow, for compliance.

**Order Date :- 6.9.2022**

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