



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus,
(CSMT) Mumbai – 400 001



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No. MSHRC/AMB/08/2025/ 1941
Date: August 2025

To,

1. The Additional Chief Secretary
Home Department
Mantralaya, Mumbai
2. The Director General of Police,
Maharashtra State, Mumbai.
3. The Additional Director General of Prison
& Correctional Services
State of Maharashtra,
Pune.

Sub: Order in Case No. 171/2012-13 dated 13.08.2025

I am directed to intimate to you to comply with the orders / directions of the Commission.

You are requested to comply with the orders within one month or as specified in the order. The compliance report be kindly submitted to this office as per Section 18 (e) of the Protection of Human Rights Act, 1993 r/w. Regulation 22 to 24 of the Maharashtra State Human Rights Commission (Procedure) Regulations, 2011.

Encl. Order copy (05 Pages)


(Pradeep Kumar Dange, IAS)
Secretary



Division Bench
Case No. 171/2012 -13 / 1941

Name of the Authority : Superintendent,
Central Prison,
Amravati.

Name of the Deceased : Salim S.K. Rafiq

Date of Death : 12.10.2012

Date : 13 August, 2025

Coram : Justice, A. M. Badar,
Chairperson

Shri Sanjay Kumar,
Member

ORDER

(per: Sanjay Kumar, Member)

1. This is the case in respect of custodial death of under trial Prisoner, Shaikh Salim Shaikh Rafiq on 26.11.2012 at Amravati Central Prisoner, Amravati. Shaikh Salim Shaikh Rafiq was under Magisterial Custody in Cr. No. 301/2012, punishable under section 395 IPC registered with Rajpeth Police Station, Amravati. He was admitted by the order of the JMFC Court, Amravati on 12.10.2012 at Central Prison Amravati. After his admission in the prison, he was kept in a separate cell, room no. 38, as he was suffering from tuberculosis. On 26.11.2012 he was found

hanging with the help of a scarf with the electric pipeline in the room. Medical Officer of Prison, Dr. Sanjay Gonarkar rushed to the spot and after examining the prisoner (hence deceased) declared him dead.

2. The superintendent of Prison intimated the State Commission through wireless message dated 26.11.2012. The Commission has taken cognizance of the matter on 29.11.2012 and asked for relevant reports from Prison administration as well from Local administration, as mandated in case of custodial death, in CrPC and in guidelines issued by NHRC.
3. As mandated, in CrPC an inquiry U/s 176 (1-A) by a Judicial Magistrate as well as inquiry U/s 176 by Executive Magistrate were conducted in the death of the deceased.
4. Sub-Divisional Magistrate, Amravati, Pravin N Thakare has conducted the Magisterial inquiry in the death of under Trial Prisoner Shaikh Salim Shaikh Rafiq and submitted the report on 30.07.2015. After inquiry he concluded that death occurred due to asphyxia due to hanging in a known case of pulmonary tuberculosis, based on the expert report. He found no ill-treatment or negligence by the Prison Administration.
5. Learned Judicial Magistrate First Class, Court no. 09, Amravati, has conducted Magisterial inquiry U/s 176 (1-A) Cr PC and submitted his report on 07.03.2025. During inquiry he has examined seven witnesses, including the brother of deceased, Abdul Shaikh Kayyum Abdul Shaikh Rafiq, and recorded their statements. He has also gone through the relevant documents related with the cause of death of the deceased which includes; Inquest Panchnama, Postmortem report, Chemical analysis report, Histopathology report, while conducting inquiry. After inquiry he has concluded that the deceased has

committed suicide by hanging, he has not died due to any sort of custodial torture or negligence in Medical Treatment by prison administration. The deceased was provided with necessary medical treatment from the beginning. He was kept into an isolated cell only because of his ailment of tuberculosis.

6. The perusal of documents such as Postmortem Notes, Chemical Analysis report as Histopathology Report revealed that there is no external injury on the body of the deceased except those associated with suicidal hanging. The cause of death after Postmortem conducted by the experts is given as "asphyxia due to hanging in a known case of pulmonary tuberculosis". Besides, it is mentioned that manner of causation of injury is suicidal.
7. Custodial death is one of the worst crimes in a civilized society governed by the rule of law. The rights inherent in Articles 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. We cannot wish away the problem. Although, in this case, on the basis of report and enquiry it was inferred that the death was suicidal, however, it is the fact that the safety and security of the Prisoner was the responsibility of the concerned Prison authority. There is a great responsibility on the prison authorities to ensure that the citizen in its custody is not deprived of his right to life. His liberty is in the very nature of things circumscribed by the very fact of his confinement and therefore his interest in the limited liberty left to him is rather precious. The duty of care on the part of the State is strict and admits of no exceptions. Any incident affecting the life of individual including suicide under the custody of Police or Prison Authority, where he is

kept for safety, security and protection, for any lapse, intentional or otherwise, state is vicariously liable for the same.

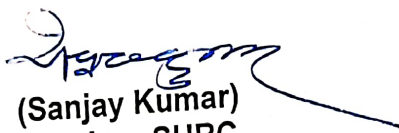
8. Following the welfare concept, even in motor accidents and other acts of fatal accidents, the concept of 'No Fault Liability' is emerging, attempting to keep a track with the doctrine of 'Strict Liability' by analogous principle, this should be applied in the case of custodial death, including suicide, while in judicial custody. The next of kin and other dependent family members suffer because state failed in providing a secured atmosphere for their breadwinner. It is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the infringement of the fundamental right to life of a citizen and the State is vicariously liable for their acts. The objective is to apply balm to the wounds. The state commission is of the view that kin of the deceased should be paid a compensation for the lapses in keeping the deceased, safe and secure. While awarding the compensation to next of the kin of the deceased, the State Commission has accepted the amount prescribed in the GR issued by Govt. of Maharashtra on April 28, 2025 in regard with suicide committed by the prisoner in custody.

9. In view of the above, the State Commission, by invoking its power assigned in section 18 of The Protection of Human Rights Act, 1993, makes following recommendation :

a) The state is recommended to pay next of the kin of the deceased (Shaikh Salim Shaikh Rafique) compensation of Rs.1,00,000/- (one lakh) within 8 weeks, from the date of receipt of this order. In case of failure, the State will be liable to pay interest on

amount of compensation at rate of 7% simple interest per annum till actual realization of whole amount.

- b) Ld. Secretary attached with the Commission will forward the copy of the order to the office of Additional Chief Secretary, Home department, Mantralaya, Mumbai, Director General of Police, Maharashtra State, Mumbai and Addl. Director General of Prison and Correctional services, Pune for necessary compliance in accordance with the provision u/s 18 (e) of Protection of Human Rights Act, 1993 r/w regulation 22 to 24 of Maharashtra State Human Rights Commission (Procedure) Regulation, 2011.
- c) With these recommendations case no 171/12-13, is closed and stands disposed.


(Sanjay Kumar)
Member, SHRC


(Justice A.M. Badar)
Chairperson, SHRC