



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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



Tel : 022-22092857

E-mail: court1-mshrc@mah.gov.in

No. MSHRC/AMB/06/2025/ 1525
Date: 30 June 2025

To,

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

Sub: Order in Case No. 2339/13/17/2022 dated 04.06.2025

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 (09 Pages)


(Pradeepkumar Dange, IAS)
Secretary



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MSHRC/SK/ /2025/

Date:

CD Case No. 2339/13/17/2022-JCD | 1525

Name of Deceased : Mangesh Anil Hirkane

Respondent : 1. Superintendent
Nagpur Central Prison, Nagpur
2. Commissioner of Police,
Nagpur
3. District Magistrate,
Nagpur

Date of Death : 10.06.2022

Date Of Order : 04th June, 2025

Coram : Justice A.M.Badar, Chairperson
Sanjay Kumar, Member

ORDER

(per Member, Sanjay Kumar)

1. This is a case related with the custodial death of convicted Prisoner NO.C-7424, Mangesh Anil Hirkane, Age 36 years, resident of, At Post Katangikala, Police station Gondia (Rural), Dist-Gondia. He was convicted of the offence

u/s.302 of IPC by Hon'ble Addition Session Judge, Gondia with imprisonment for life on 02.11.2007. He was admitted to Nagpur Central Prison on 04.11.2007 and was undergoing the sentence in the prison.

2. On 10.06.2022 the above-mentioned prisoner at 02.30 a.m. was found drowned in the water tank inside the barrack and immediately taken to the Prison's hospital, from where he was referred to the Govt Medical College Hospital, Nagpur on 10.06.2022 at 2.45 hrs. As per the record, he was brought dead to the hospital. At 03.22 a.m. he was declared dead by the Medical Officer on duty, Dr Ajay Bhojwani.
3. As per the record the uncle of the deceased Uttam Kumar Dhanuji Hirkane vide memorandum dated 11.06.2022, addressed to PI, Dhantoli, Nagpur has raised suspicion about death of Mangesh A Hirkane and alleged that death has occurred due to the negligence of Jail administration and requested an investigation through CID.
4. As per the mandate, a Judicial inquiry in the cause of the death of prisoner Mangesh Anil Hirkane (since deceased) was conducted under Section 176(1A) Cr PC by Judicial Magistrate, 1st Class (Corporation Court No.2), Nagpur. During the inquiry Ld. Judicial Magistrate examined and recorded the statements of 19 witnesses which included, primarily Jail officials, inmates, Medical officer of the prison, Senior jail Superintendent and doctors who have conducted the autopsy. Besides, Ld. Magistrate went through the relevant documents related with the investigation of death of the deceased which includes Inquest Panchnama, Postmortem notes, Histopathology report etc. He is not able to go through the CCTV footage which was installed

in the barracks as it was not functional. The Ld. Judicial Magistrate on the basis of his inquiry concluded "it medically and clinically observed that deceased Mangesh A Hirkane died due to drowning as he was undergoing medical treatment for, epilepsy with psychiatric illness".

5. The medical officer of the Prison Dr Chandrakant Tulshiram Virutkar, who has referred the deceased after preliminary examination on 10.06.2022 to Govt Medical Collage for further treatment, in his statement mentioned that the deceased was suffering from mental illness for last 12 years and had been taking medical treatment at Govt Medical Collage and Hospital Nagpur. He also referred to the medical record of deceased dated 26.10.2021 where remarks by concerned doctors are given about signs of mental disorder of Mangesh Hirkane.
6. The Judicial inquiry report has not mentioned anything about negligence on the part of the Jail administration. Ld. Judicial Magistrate confined his inquiry to the cause of death of the Prisoner Mangesh Hirkane. However, an internal inquiry was conducted on the order of DIG Prison, East Division by Superintendent of Jail of Yavatmal District Prison. The inquiry officer concluded negligence and dereliction of duty by the two convicted prisoners; Vinod L Dhurve and the convicted prisoner, Rajkumar Yete who were assigned the Guard duty in the barrack and they were found negligent about their duty. Besides, in the inquiry Inquiry officer also observed that due to non-functional status of CCTV of the barrack, the correct sequence of the event could not be found. The inquiry officer has also commented that the night duty officer, Anand Subhash Pansare, Prison Officer, Group-1 who was

supposed to make round during the night was unable to tell the inquiry officer when he actually made the round of the barrack.

7. The report dated 01.10.2024, the Superintendent of Nagpur Central Prison informed the State Commission that out of the two convicted prisoners who were found negligent in their duty; Vinod Lakhe Dhurve after completion of his sentence was released from the jail on 04.10.2023, whereas the other prisoner, Rajkumar Yete, was awarded major punishment as per the Maharashtra Prison Rules. Besides, he has mentioned about 3 Measures taken by the jail authorities to avoid such incidents in future in the barrack which included; 1) Removal of the water tank from the barrack 2) Making CCTV functional and 3) Installing panic button inside the barrack.
8. The protection and safety of the prisoners is the prime objective of the Prison and Prison officials. It's worth mentioning that prison officials are assigned with the additional responsibility of correctional services which is quite obvious from nomenclature of their department and designation. It was known fact that Prisoner Mangesh Hirkane was suffering from mental illness and had suffered attack of Epilepsy. In spite of the prevailing medical conditions, the prison administration failed and neglected in its duty to provide the prisoner required safety and security inside the barrack. The persons who were assigned for Guard Duty inside Barrack, one of them was using hearing aid, were found wanting in their duties. The CCTV camera installed in the prison for furtherance of the fundamental rights of prisoners guaranteed under article 21 of constitution of India, was found nonfunctional due to negligence of jail administration. Considering above documents and

inquiry

reports the State Commission was of the view that the death has occurred due to negligence by the officials of Nagpur Central Prison. The recommendation and action taken by jail administration as conveyed to the State Commission, if have taken earlier could have saved the life of prisoner.

9. In order to give an opportunity to be heard and to produce evidences in the defense as per the provision of Section 16 of PHR Act the State Commission by its order dated 24.03.2025 issued show cause notice to the Superintendent, Nagpur Central Prison, Nagpur and Addl Director General of Police, Prison and Correctional services as to why suitable compensation on account of custodial death of Mangesh Hirkane should not be awarded? The State Commission has received a response dated 29.05.2025 from Spl. IGP, Prison and Correctional Services (Headquarter) reiterating and reproducing the earlier report of Superintendent, Nagpur Central Prison. No other response has been received by the commission.

10. It is well established fact that there is no difference in the fundamental rights and human rights enshrined in the constitution of India of a prisoner or a civilian. Prisoners enjoy the same rights and protection. Hon'ble apex Court in Nilabati Behera v. State of Orissa, (1993) 2 SCC 746: 1993 SCC (Cri) 527 at page 767 observed that :

"31. It is axiomatic that convicts, prisoners or undertrials are not denuded of their fundamental rights under Article 21 and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental right by such persons. It is an obligation of the State to ensure that there is no infringement of the indefeasible rights of a citizen to life,

except in accordance with law, while the citizen is in its custody. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials or other prisoners in custody, except according to procedure established by law. There is a great responsibility on the police or 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. The wrongdoer is accountable and the State is responsible if the person in custody of the police is deprived of his life except according to the procedure established by law. I agree with Brother Verma, J. that the defense of "sovereign immunity" in such cases is not available to the State and in fairness to Mr Altaf Ahmed it may be recorded that he raised no such defense either."

11. It is also well settled and established fact that any established violation of human rights and fundamental rights, enshrined in Constitution of India, by State or its agencies required to be monetary compensated by the state as per strict Liability. Hon'ble Apex court while dealing with custodial violence in " D.K. Basu v. State of W.B., (1997) 1 SCC 416: 1997 SCC (Cri) 92 at page 443" observed that ;

"54. Thus, to sum up, 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 established infringement of the fundamental right to life of

a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defense of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on the punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

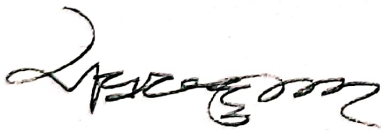
12. Considering above mentioned facts and observations of Hon'ble Apex court, State Commission is of the view that death of Prisoner Mangesh Anil Hirakane inside the barrack of Nagpur Central Prison has occurred due to

negligence and casual approach of jail administration of Nagpur Central Prison. The measures in the form of CCTV which was installed by the State in furtherance of protection of Fundamental right of Prisoners was victim of casual and negligent approach of jail administration and was not functional. The prevailing medical condition of Prisoner Mangesh Hirkane was not taken in consideration while placing him in the barracks. The jail superintendent and ADG prison was given the opportunity as Section 16 of the protection of Human right to submit his say, but no new submission has made. The State Commission, instead of computing afresh the amount of compensation has banked on the Government Resolution passed on April 28, 2025 in regard with amount of compensation to be awarded in case of custodial death by negligent approach of staff of prison.

13. Hence, provoking the power u/s 18 of The Protection of Human Right Act, 1993, the State Commission makes the following recommendations:

- a) **The State Commission recommends compensation of Rs 5,00,000/- (Five lakhs) to be paid to the next of kin of deceased, Mangesh Hirkane, within two months from the date of order. In case of failure in complying with recommendation in time, State has to pay the rate of interest of 7% per annum simple interest on the amount of compensation from the date of order till the realization of the entire amount.**
- b) **The State is recommended to draft a SOP fixing the responsibility and accountability in maintenance, upkeep and monitoring of the functioning of CCTV in the prison, on the line of observation made by the Hon'ble apex Court in case "Special leave Petition (criminal) no. 3543 of 2020, Praamvir Singh Saini vs Baljit Singh & others", reported at 2020 SCC Online SC999.**

- c) The measures suggested by Jail Superintendent, Nagpur Central Prison in its letter dated 03/04/2025 which was later endorsed by the Spl IGP Prison and Correctional services, Maharashtra State vide its letter dated 29.05.2025, which includes; removal of water tanks from inside Barrack, to establish a monitoring room to supervise CCTV cameras and placing a panic button inside the Barrack, after examining in detail should be implemented in all the prisons.
- d) A detailed enquiry by an officer, not below the rank of DIG prison should be conducted in the matter and if found guilty, punishment should be awarded to all responsables .
- e) Ld. Secretary attached with the Commission will forward the copy of the order to the office of Additional Chief Secretary, Home Department, Mantralaya, Mumbai and Additional Director General of Prison and Correctional Services, Maharashtra State, 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.
- f) With above recommendations, the Custodial Death Case no. 2339/13/17/2022- JCD stands closed and disposed.


(Sanjay Kumar)
Member, MSHRC


(Justice A.M. Badar)
Chairperson, MSHRC