

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

PIL No. 9 of 2017

Date of order: 03.05.2023

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In Re suo motu custodial violence  
and other matters relating to vs State of Meghalaya & ors  
prison conditions

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**Coram:**

**Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice**  
**Hon'ble Mr. Justice H. S. Thangkhiew, Judge**

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**Appearance:**

For the Petitioner : Dr N. Mozika, Amicus Curiae with  
Ms A. Pradhan, Adv.

For the Respondents : Mr K. Khan, PP  
Mr S. Sengupta, Addl PP  
Mr A. H. Kharwanlang, Add Sr GA  
Mr S.A. Sheikh, Adv. [For R 12]  
Ms P. Agarwal, Adv. [For R 18]  
Ms N. Ragee, Adv.  
Mr D. Dkhar, Adv. vice  
Mr S.P. Mahanta, Sr. Adv.  
Ms A.R. Passah, Adv. [For R 22]  
Ms B. War, Adv. [For R 23]  
Mr S.S. Yadav, Adv.

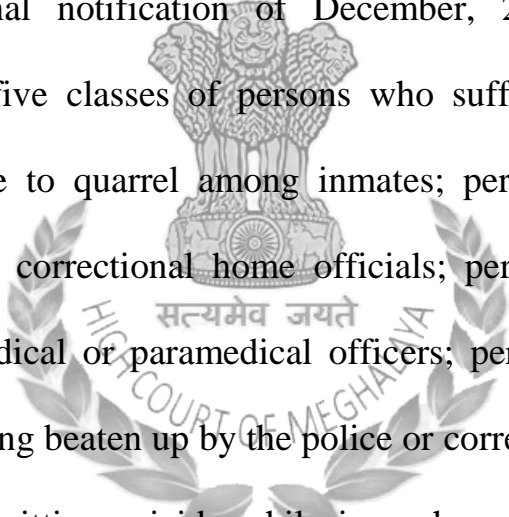
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Mr K. Khan, learned Additional Advocate-General, begins with an apology since the submission recorded in the previous order of March 22, 2023 was inaccurate.

2. The order dated March 22, 2023 recorded the State's submission to the effect that it was in the process of framing rules and guidelines pertaining to compensation for cases of death in custody modelled on the rules adopted by Haryana as approved by the National Human

Rights Commission. It, however, appears that by a notification of December 15, 2022 the State had already formulated a scheme for payment of compensation to the bereaved families of persons who had died either in police or judicial custody and also inmates in the correctional homes in the State. A further notification in continuation of the previous notification of December 15, 2022 has been published on May 2, 2023.

3. The original notification of December, 2022 provides for compensation to five classes of persons who suffer custodial death: persons dying due to quarrel among inmates; persons dying due to negligence by the correctional home officials; persons dying due to negligence by medical or paramedical officers; persons dying due to torture or upon being beaten up by the police or correctional home staff; and, persons committing suicide while in such custody. The original notification also provides that no compensation would be payable in case of natural death due to illness and where State officials may not be responsible for such death. Compensation would also not be admissible if the death occurs during escape or due to any natural disaster or calamity or any pandemic.



4. In cases of death due to quarrel among inmates and death due to torture or being beaten up by the police or correctional home staff, the compensation provided by the notification is Rs. 7.5 lakh. In the three other cases, the quantum of compensation is Rs. 5 lakh.

5. The recent notification of May 2, 2023 provides that in cases where claims and counter-claims arise in connection with any death in custody not due to natural causes or suicide and where findings are inconclusive, the quantum of compensation shall be determined by a competent court.

6. As far as the present matter is concerned, the same deals with custodial deaths in the State since the year 2012. The matter has continued for quite some time and, at last, the State accepts that there have been 49 instances of death in custody since 2012 till date. The figure has been vetted and verified by Dr Mozika, Amicus Curiae appointed in the matter.

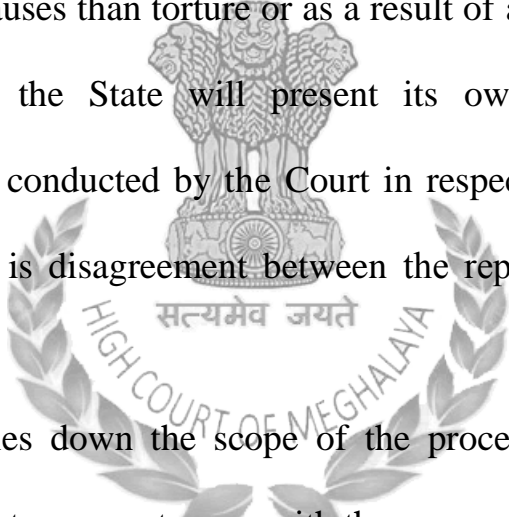
7. Details as to the possible cause of death in each case have been furnished by the State and the Court is grateful to Dr Mozika for going through the same and categorising the cause of death in each case. Dr Mozika is requested to formally make over a copy of the details or

report in such regard under cover of a letter to learned Advocate for the State. Such exercise should be completed in course of this week.

8. The State submits that to the extent the cause of death indicated in Dr Mozika's report is found to be appropriate, there would be no questions asked and the quantum of compensation as indicated by the notification of December, 2022 would be paid. However, in certain cases, where the death may have been due to natural causes or due to suicide or lesser causes than torture or as a result of a fight breaking out amongst inmates, the State will present its own version for the adjudication to be conducted by the Court in respect of the individual cases where there is disagreement between the report and the State's findings.

9. This whittles down the scope of the proceedings to only the cases where the State may not agree with the cause of death as indicated in Dr Mozika's report. There appears, therefore, to be light at the end of the tunnel.

10. As far as the quantum of compensation is concerned, the Court perceives the amounts indicated in the notification of December, 2022 to be slightly lower than the figures that had been informally indicated in course of previous hearings. The State may do well to increase the



quantum by about 25 per cent or, at the very least, make a distinction based on the age of the person dying in custody. At any rate, it is made clear to the State that the quantum of compensation as indicated or as may be enhanced in accordance with law will fall due immediately upon the death of a person and, as such, for any delayed payment, whether wilful or otherwise, interest would accrue.

11. Since the State seeks sufficient time to consider the report prepared by Dr Mozika, let the matter appear six weeks hence.

12. List on June 19, 2023.

**(H. S. Thangkhiew)**  
**Judge**



सत्यमेव जयते

**(Sanjib Banerjee)**  
**Chief Justice**

Meghalaya  
03.05.2023  
"Sylvana PS"