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SMT. NILABATI BEHERA ALIAS LALIT BEHERA VS STATE OF ORISSA AND ORS 1993

Ayesha khan

Title: Smt. Nilabati Behera Alias Lalit Behera vs . State of Orissa And Ors

Court: Supreme Court of India

Year: 1993

Citation: (1993) 2 SCC 746

PARTIES INVOLVED

- Petitioner (Plaintiff): Nilabati Behera (acting on behalf of her deceased son, Suman Behera).
- Respondents (Defendants): State of Orissa and police officials involved in the custody of the deceased.

INTRODUCTION

Nilabati Behera v. State of Orissa, (1993) is a landmark judgment of the Supreme Court of India concerning custodial death, protection of the right to life under Article 21, and financial compensation as a constitutional remedy.[1] The case arose from the death of Suman Behera, the petitioner 22-year-old son, who was taken into police custody on 1 December 1987 in connection with a theft inquiry. The following day, his dead body was found on a railway track with multiple

[1] *Nilabati Behera v. State of Orissa,* (1993) 2 SCC 746 (India).

injuries. The police maintained that he had escaped from custody and was killed in a train collision.[2]

The Supreme Court directed an inquiry by the District Judge. The inquiry concluded that Suman Behera had died from injuries inflicted while he was in police internment.[3] The Court consequently examined not only the State's responsibility for the custodial death but also whether monetary compensation could be granted directly in proceedings under Article 32 for the violation of the fundamental right to life. [4]

The judgment is particularly significant because the Court recognized that compensation for an established violation of Article 21 is a public-law remedy, separate from an ordinary civil action for damages. Additionally, the court ruled that the doctrine of sovereign immunity cannot be invoked to shield the government from its constitutional obligation.[5]

FACTS

The case arose from the death of Suman Behera, aged about 22 years.[6]

- On 1 December 1987 at about 8:00 a.m., Suman Behera was taken from his home by Sarat Chandra Barik, Assistant Sub-Inspector of Police, for questioning in

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[2] *Id.* at 746–47. The Supreme Court's judgment records that Suman Behera was taken into police custody on December 1, 1987, and that his body was found on the railway track the following day.

[3] *Id.* at 748–49.

[4] *Id.* at 760–61 (explaining that compensation under Articles 32 and 226 is a remedy available in public law and is distinct from private-law compensation).

[5] *Id.* at 760–61 (holding that sovereign immunity does not apply to the public-law remedy for contravention of fundamental rights).

[6] *Id.* at 746.

connection with an alleged theft investigation.[7]

- On 2 December 1987, his mother came to know that Suman's dead body had been found on a railway track near a bridge close to Jeraikela railway station. The body had multiple injuries, and his death was clearly unnatural. [8]
- Police authorities claimed that Suman Behera had managed to escape from police custody during the night of December 1, 1987, and was subsequently run over by a passing train while on the tracks.[9]
- Nilabati Behera sent a letter to the Supreme Court of India alleging that her son was tortured and murdered while in police custody. She therefore sought compensation for the violation of her son's fundamental right to life under Article 21 of the Constitution.[10]

ISSUE INVOLVED

Issue 1: Whether the death of Suman Behera occurred while in police custody due to injuries inflicted by police, making the State directly responsible for the violation of his fundamental right to life under Article 21 of the Constitution of India.[11]

Issue 2: Whether the Supreme Court, in exercising its writ jurisdiction under Article 32 can directly award monetary compensation to victims or their families for a proven violation of Article 21.[12]

Issue 3: Whether the State can invoke the defense of "sovereign immunity" to avoid liability for compensating victims of constitutional torts committed by its officers.[13]

ARGUMENTS OF THE PARTIES

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[7] Id. at 746-47

[8] Id. at 747

[9] Id. at 747-48

[10] *Id.* at 746, 748.

[11] *Id.* at 758–61.

[12] *Id.* at 758–61.

[13] *Id.* at 760–61.

ARGUMENT ON BEHALF OF THE PETITIONER (NILABATI BEHERA)

- Custodial Violence & Torture: The petitioner argued that her son, Suman Behera, was taken into police custody on December 1, 1987, and was subjected to illegal physical abuse and torture while detained at the police outpost. She contended that the multiple injuries found on his body were ante-mortem (inflicted before death) as a result of beatings by police officers.
- Violation of Article 21: It was asserted that Suman Behera's fundamental Right to Life under Article 21 of the Constitution was blatantly violated. The petitioner argued that when an individual is in state custody, the State has an absolute duty to safeguard their life and dignity.
- Fabricated Escape Defense: The petitioner's counsel disputed the police narrative that Suman Behera had escaped from custody during the night. They pointed out that his body was found dumped on railway tracks near the police outpost, which was a deliberate attempt by the police to cover up custodial murder and pass it off as a train accident.
- Entitlement to Public Law Compensation: The petitioner submitted that monetary compensation directly awarded under Article 32 is an established public-law remedy. Civil remedies (such as filing a tort suit for damages) were argued to be inadequate, slow, and inaccessible for an impoverished victim's family facing the state machinery.
- Reliance on Judicial Inquiry: The petitioner relied heavily on the findings of the District Judge's judicial inquiry, which independently concluded that Suman Behera died from injuries inflicted during police custody, rejecting the police version.

ARGUMENTS ON BEHALF OF THE RESPONDENTS (STATE OF ORISSA & POLICE OFFICIALS)

- Denial of Custodial Death: The State denied that Suman Behera died due to custodial torture or police violence. They maintained that the police officers had not committed any act of assault or illegal force against the deceased.

- Maintainability & Scope of Article 32: The State raised a jurisdictional objection, claiming that a Writ Petition under Article 32 was intended primarily for declaring rights or issuing writs not for evaluating unliquidated civil damages or awarding monetary compensation.
- Defense of Sovereign Immunity: The respondents implicitly relied on traditional tort doctrine (referencing cases like *Kasturi Lal*), arguing that police actions performed during criminal investigations constitute sovereign functions of the State, shielding the government from financial liability for actions taken by its officers.

DECISION OF THE COURT

The Supreme Court delivered a decisive ruling by accepting the District Judge's judicial inquiry report, holding that Suman Behera died from injuries inflicted during police internment and that this custodial death constituted a direct breach of his fundamental Right to Life under Article 21. Adjudicating on the issue of redress, the Court established that awarding monetary compensation under Article 32 is a recognized public-law remedy meant for the enforcement of fundamental rights, operating completely independently of private civil remedies for tortious damages. Consequently, the Apex Court ordered the State of Orissa to pay Rs1,50,000 in compensation to the petitioner and Rs 10,000 to the Supreme Court legal aid committee . Furthermore, the Court firmly rejected the State's defense of sovereign immunity, ruling that such traditional doctrines cannot be invoked to defeat constitutional remedies or shield the government when fundamental rights are violated.

RATIONALE OF THE COURT

In formulating its rationale, the Court led by Justice J.S. Verma with a concurring opinion by Justice Dr. A.S. Anand clearly demarcated the boundary between private-law tort actions and public-law constitutional remedies. The Bench observed that compensation in public law does not function as a standard assessment of civil damages, but rather serves to penalize wrongdoers, reassure victims, and uphold the

rule of law by enforcing constitutional guarantees. The Court stressed that when the State deprives a citizen of personal liberty, it assumes an absolute duty of care; thus, an unexplained death in custody creates a heavy burden of proof on the police, which the State failed to discharge given the implausibility of its escape narrative alongside the physical medical evidence. Finally, the Court limited the scope of sovereign immunity (historically grounded in Kasturi Lal v. State of UP) strictly to traditional civil claims, establishing that sovereign immunity cannot override constitutional obligations or weaken the State's absolute liability to repair violations of Article 21.

CRITICAL EVALUATION

The Supreme Court's decision represents a bold, human-rights-centric interpretation of Article 21 and Article 32.[14] By prioritizing substantive justice over rigid legal formalities, the Court recognized that guaranteeing fundamental rights is meaningless without an effective mechanism to remedy their breach, thereby transforming constitutional guarantees into enforceable protections. A major strength of this judgment lies in its pragmatic judicial activism, which bypassed decades of civil litigation delays to offer immediate public-law relief.[15] Furthermore, Justice Verma's opinion provided a clear conceptual distinction between private tort damages and public-law constitutional remedies, while successfully dismantling the defense of sovereign immunity to align Indian jurisprudence with international human rights standards. Conversely, a notable weakness of the ruling is its ad-hoc award of ₹1,50,000 without laying down a standardized formula for quantum calculation in future constitutional torts. [16]

CONCLUSION

In conclusion, Nilabati Behera v. State of Orissa (1993) fundamentally reshaped Indian constitutional law by firmly establishing monetary compensation as an independent public-law remedy under Articles 32 and 226.[17] By repudiating sovereign immunity in

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[14] *Id.* at 758–61.
[15] *Id.* at 758–61.
[16] *Id.* at 762.
[17] *Id.* at 760–61.

cases of custodial death and imposing strict accountability on the State, the Supreme Court created an accessible pathway to justice for socio-economically marginalized citizens. Ultimately, this landmark ruling stands as a cornerstone of human rights protection in India. By bridging the divide between abstract constitutional rights and practical redress, the Court ensured that the right to life remains robust against state overreach, affirming that while lost human lives cannot be restored, the State remains strictly answerable for its lawlessness.