

DISTRICT: KOLKATA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A. (P) No. 579 of 2023

In The Matter of:

An application under article 226 of the
Constitution of India;

AND

Subject matter relating to:

Under Group -.....
Of the Classification List;

CAUSE TITLE

Priyanka Tiberwal

...Petitioner

-Versus-

The Union of India and Ors.

...Respondents

Priyanka Tiberwal
Advocate-on-Record: (In Person)
Priyanka Tiberwal
Advocate

High Court at Calcutta
'Hastings Chambers'
7C, Kiran Shankar Roy Road,
2nd Floor, Room No.- 206
Kolkata- 700 001

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

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Index

SL NO.	PARTICULARS OF THE DOCUMENT	ANNEXURES	PAGE NO.
1.	List of Dates	-	
2.	Synopsis		
3.	Point of law	-	
4.	Writ Petition with Affidavit	-	
5.	Copy of the media report	P/1	

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION⁺

APPELLATE SIDE

W.P.A (P) No. of 2023

In the matter of:

Priyanka Tibrewal

...Petitioner

-Versus-

The Union of India and Ors.

...Respondents

SYNOPSIS

On 15th November, 2023, a man identified as Ashok Kumar Singh died in the custody of Ahmerst Street Police Station.

Hence, this Public Interest Litigation

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P.A (P) No. of 2023

In the matter of:

Priyanka Tibrewal

...Petitioner

-Versus-

The Union of India and Ors.

...Respondents

LIST OF DATES

Dates

Particulars

15th November, 2023 :

Custodial Death

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P.A (P) No. of 2023

In the matter of:

Priyanka Tibrewal

...Petitioner

-Versus-

The Union of India and Ors.

...Respondents

POINT OF LAW

- i. WHETHER the impugned action of custodial torture and death and inaction on the part of the police respondent, State authorities violates the fundamental rights as guaranteed under the Constitution of India?
- ii. WHETHER the evidence are required to be preserved as the Petitioner apprehends that the evidence shall be tampered by the police authority of the incident?
- iii. WHETHER there is serious doubt about fairness of the investigation by the police authorities?

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)

W.P. A. (P) No. of 2023

In The Matter of:

An application under Article 226
of the Constitution of India;

And

IN THE MATTER OF:

Priyanka Tiberwal, wife of Aditya
Tiberwal, working for gain at 7C,
Kiran Shankar Roy Road, 2nd
floor, room no. 206, Kolkata - 700
001, Police Station Hare Street
...Petitioner

-VERSUS-

- 1) The Union of India, through its
Secretary, Ministry of Home
Affairs, Government of India,
North Block, New Delhi - 110001
Email: jscpg-mha@nic.in

Through
Priyanka Tiberwal
20.10.2023

- 2) The State of West Bengal, through Secretary, Ministry of Home Affairs, Government of West Bengal. having its address at NABANNA, 325, Sarat Chatterjee Road, Shibpur, Mandirtala, Howrah-711-102. Email id:
- 3) Director, The Central Bureau of Investigation (CBI), Plot No 5-B, CGO Complex, Lodhi Road, New Delhi-110003 Email: information@cbi.gov.in
- 4) The Superintendent of Police, The Central Bureau of Investigation (CBI), Kolkata Zone, 234/4, A.J.C. Bose Road, 15th Floor, Nizam Palace, 2nd MSO Building, Kolkata-700020. Email: hozkol@cbi.gov.in;
- 5) Principal Secretary, Home (Police) Department, Government of West Bengal, Nabanna, 325, Sarat Chatterjee Road, P.S. Shibpur, Howrah-711 102; Email id:
- 6) The Commissioner of Police, Kolkata, Labazar Street, Kolkata -

700 001; Email id:
cpkolkatapolice.gov.in;

7) The Deputy Commissioner of Police,(North) having its address at 18, Lal Bazar Street, Kolkata - 700 001; Email id: dcddspl@kolkatapolice.gov.in;

8) Officer-in-Charge, Police Station, Amherst Street- College Street Police Station having its address at Amherst Street, 57, Raja Ram Mohan Sarani Rd, Machuabazar, Kolkata, West Bengal 700009; Email id: **amherststreetps@kolkatapolice.gov.in.**

... Respondents

To

The Hon'ble T.S. Sivagnanam, Chief Justice and His Companion Justices of the said Hon'ble Court

The humble petition of the petitioner abovenamed most respectfully

SHEWETH:

1. Your petitioner is a law abiding and peace-loving citizen of Bharat and working for gain at the address as mentioned hereinabove which is in the State of West Bengal within the Union of India and legal practitioner of this Hon'ble Court.
2. The Petitioner being pained at the sorry state of affairs in the democratic set-up in the state of West Bengal has been constrained to file the instant petition.
3. Your petitioner states that Article 21 of the Constitution has a larger aura and the custodial violence and other police brutality negates it. It goes against the basics of ethics, culture, and human rights jurisprudence. Custodial deaths violate not only democratic fabric and human rights aura but badly undermines the rule of law and constitutionalism as envisaged in our supreme law of the land. There is no place for these inhumane practices in our country. Time has come when we should have zero tolerance for custodial violence. What is required is not just reforms in the organisational structures of centralised police and paramilitary forces but some rethinking to modernise laws such as the Police Act. Only this can ensure protection of the human rights of the people at the bottom who often become victims of lawless police violence and misdemeanour. The police officials found indulged in human rights violations, particularly the custodial deaths should be promptly and severely punished so that others could not dare to repeat such violations. Let others take a lesson from this incident. There should be no place for police brutality in this land of The Mahatma Gandhi.
4. Your petitioner states that on 15th November, 2023 the man, identified as Ashok Kumar Singh, a native of Bihar residing on Patuatola Lane in Kolkata, was declared brought dead after being taken to Calcutta Medical College and Hospital. Following Singh's death, his family members staged a protest outside Amherst Street

police station and blockaded College Street, affecting road traffic for at least an hour. A relative of the deceased said, "He was summoned by the police and asked to bring with him the phone he was using. He went inside Amherst Street police station and my wife, who was his niece, was waiting outside. After some time, we found him lying on the floor with blood oozing out of his nose. He was not responding and when we took him to the hospital, he was declared brought dead." "Singh's family members have lodged a police complaint with the Amherst Street police station over the incident. "as reported in at: <https://www.oneindia.com/india/man-dies-after-being-summoned-to-police-station-in-kolkata-gen-3683543.html?story=1>

5. That the Petitioner states that the deceased received a call from a police station wherein he was asked by the police officer to come to police station and deposit his cell phone as the cell phone was allegedly a stolen phone. It is further stated that the when the deceased went to the police station, he called one of his relative to come to police station as he was under threat. Copies of the media report are annexed hereto and marked with Letter P/1.
6. That the petitioner further states that as soon as his relative reached at the Police Station, he waited outside the police station for 15 minutes, thereafter he entered in to the police station. The relative when asked about the deceased, one of the officers of the Police Station informed that the deceased had a conversion attack and he had fainted. However, when the family entered the Police Station the body of the deceased was lying under a bench and saliva was oozing out of his mouth and there was blood under his head and the police officers were watching cricket match in the police station leaving the body unattended. The police officer


detained the family of the deceased and was giving false hopes that they had called an ambulance. However, after one hour no ambulance arrived, thereafter on the continuous enquiry about the ambulance the police took the body in the police van to the hospital the family. The deceased was taken to the Calcutta Medical Hospital wherein it was informed by the Doctor that the person had died much before arriving to the hospital.

7. Your Petitioner states that there was no proper information given to the family of the deceased. When the family of the deceased asked about the CCTV recordings the police officers said that they will show it before Court.
8. Your Petitioner states that the deceased was a healthy man with no medical history in the past, as such the sudden death of the deceased raises questions upon the Police Authority.
9. Your Petitioner states that the public life is at stake as this kind of incidents is rising day by day and police officers have no answer to why such incident had happened in a police station.
10. Your Petitioner states that it is the fundamental right of the ~~Petitioner~~ ^{deceased} and his family members to get a fair trial as protected under the Article 21 of the Constitution of India and the same can be achieved if the investigating authority carries out or discharges its function fairly, meaningfully and fructuously. In the instant case it would be evident that the investigating authority is itself conducting an illegal and perverse investigation being motivated by the political colors and therefore the basic tenets of Article 21 is being affected and such an investigation is neither objective nor fair and can be termed a completed miscarriage of justice.
11. That in gross abuse of power, a perfunctory investigation has been carried out maliciously to wreak vengeance upon, the deceased. In such a case, in order to ensure "fair and proper

investigation", an investigation must be carried out unbiased, honest just and in accordance with law.

12. That the willful and deliberate failure and sheer negligence on the part of the Respondent No. 5 to 10 to lawfully discharge the statutory duties cast upon the in terms of Section 23 of the Police Act, 1861 and the Police Regulations of Bengal, 1943 is unprecedented, abominable and may be strictly dealt with by this Hon'ble Court.
13. Your petitioner states that the complete apathy on part of the local investigating agency not only justifies the conclusion of the petitioner that the investigation by the police authorities would result into a complete miscarriage of justice but warrants interference of this Hon'ble Court to ensure that an impartial, fair and effective investigation takes place which is a part of Article 21 of the Constitution of India.
14. Your petitioner states that there have been number of serious instances of Human Rights violation in the State of West Bengal in the recent past and serious violati~~on~~ of fundamental rights of life, liberty, safety, security, peace and equality guaranteed under Article 14, 19 & 21 of the Constitution of India which would show that a definite pattern has emerged resulting in such violations in active connivance and/or knowledge of the State authorities including police authorities. This pattern clearly suggests that the unfortunate incident in question is one of the incident as a part of a larger criminal conspiracy.
15. Being aggrieved and dissatisfied with the action and atrocities committed by the police authorities, the Petitioner begs to move this instant application on the grounds as morefully stated herein below:-

GROUNDS

- i. FOR THAT the impugned action of custodial torture and death and inaction on the part of the police respondent, State authorities violates the fundamental rights as guaranteed under the Constitution of India;
- ii. FOR THAT "When you have police officers who abuse citizens, you erode public confidence in law enforcement. That makes the job of good police officers unsafe" - Mary Frances Berry.
- iii. FOR THAT the evidence are required to be preserved as the Petitioner apprehends that the evidence shall be tampered by the police authority of the incident.
- iv. FOR THAT there is serious doubt about fairness of the investigation by the police authorities.
- v. FOR THAT delay in ordering a free and impartial probe by the C.B.I. will result in serious miscarriage of justice and will also lead to destruction of vital evidence;
- vi.  FOR THAT the mode and manner in which the respondents have acted abundantly violates the fundamental rights of ^{deceased} ~~petitioner~~ and his family members;
- vii. FOR THAT the respondent police have not complied with any procedure of law in acting in any manner as morefully stated herein above;
- viii. FOR THAT such gargantuan inaction on the part of the investigating Officer unveils the pitiable state of affair and the petitioner and other family members of the deceased have no faith in the state police authorities so far investigation of the instant proceeding is concerned.
- ix. FOR THAT the impugned inaction on the part of the respondent police is wholly malafide, dehors the provisions of law and is colourable in nature;
- x. FOR THAT it is trite law that a bias investigation is nothing but a miscarriage of justice

- x. FOR THAT the Petitioner has every right to demand fair investigation.
 - xii. FOR THAT any other grounds which may be taken at the time of hearing of the case.
16. Your petitioner submits that the culprits should be punished and the family of the victims should be compensated immediately and adequately.
 17. Your petitioner has got extreme urgency and expeditious steps are required to be taken to hand over the investigation to an independent investigating agency because the police authorities and SIT team are attempting to wipe off the evidence as such directions are required to be passed to transfer the case to CBI and CBI to forthwith take over the investigation in the case and submit the progress report before this Hon'ble Court.
 18. Your petitioner is humbly praying before this Hon'ble Court to allow the petitioner to move this application by dispensing with the Rule 26 of the Writ rules.
 19. All papers and documents relating to this case are lying in the office of the respondent authorities which is situated within the Appellate Side Jurisdiction of this Hon'ble Court as such this Hon'ble Court has ample power to entertain the present writ petition in its Appellate Side Jurisdiction.
 20. Your petitioner has no other speedy efficacious remedy save and except to move this application before this Hon'ble Court at its Constitutional Writ Jurisdiction. Your petitioners have not filed any other application before this Hon'ble Court or any other Court of law on the self-same cause of action.
 21. Unless the orders as prayed for herein are made your petitioner will suffer irreparable loss and injury and the orders as prayed for herein should be made for the ends of justice.

22. This application is made bonafide and in the interests of justice.

Your petitioners, therefore, most respectfully pray to your Lordships for orders that:

- A) Rule 26 of the Writ Rules be dispensed with;
- B) A Writ or of in the nature of Mandamus be issued directing the respondent authorities as follows:
 - i. to act in accordance with law,
 - ii. to direct the authorities to produce the all records of the case immediately;
 - iii. to conduct the post mortem in the AIIMS Kalyani and the procedure of the post mortem be duly recorded and a copy of the same be handed over to the Petitioner;
 - iv. to direct the State police authority to handover the files of the cases, CCTV footage of 15th November, 2023 of all entry and exit points; main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub Inspector's room; areas

outside the lock-up room; station hall; in front of the police station compound; outside (not inside) washrooms/toilets; Duty Officer's room; back part of the police station etc. of the Amherst Street Police station pertaining to the present case to the Registrar General, Appellate Side, High Court at Calcutta for safe custody and/or to the Central Investigation Bureau for free, fair and proper investigation;

v. to direct the concerned Forensic Science Laboratory (FSL) to submit the report within a stipulated time period and further leave be granted to amend the cause title to include the Director of the concerned Forensic Science Laboratory after the same is disclosed by the State Respondents;

vi. to direct the State respondents to compensate the deceased and his family of incident immediately and adequately;

C. A Writ of or in the nature of Certiorari be issued directing the respondents to transmit all papers and documents relating to

this case so that on perusal of the same a conscionable justice may be administered thereon;

D. Rule Nisi in terms of prayers above;

vii. An order directing the concerned Forensic Science Laboratory (FSL) to submit the report within a stipulated time period;

E. Ad-interim order in terms of prayers above;

F. Any other or further order or orders and/or direction or directions as to Your Lordships may deem fit and proper,

And your petitioner, as in duty bound, shall ever pray.

AFFIDAVIT

I, Priyanka Tiberewal, wife of Aditya Tiberewal, aged about 43 years, by faith – Hindu, by occupation – legal practitioner and residing at 54/10, Debendra Chandra Dey Road, Tangra, Active Acres, Tangra, Kolkata-700 015, do hereby solemnly affirm and say as follows :

1. That I am the Petitioner herein. I know and have made myself fully acquainted with the facts and circumstances of this case. I am competent to and do affirm this affidavit.
2. The statements made in paragraph no. 1 to 12 are information derived from record which are believed to be true and correct and the rest thereof are my respectful submissions including the prayer portion before this Hon'ble Court.

Prepared in my office

The Deponent is known to me.

Advocate.

Clerk to :

Ld. Advocate

Solemnly affirmed before
me on this day of
November, 2023.

COMMISSIONER.

I certify that all the Annexures
are legible.

Advocate.

-14-

Letter #1

सबसे तेज न्यूज वेबसाइट



नेशनल

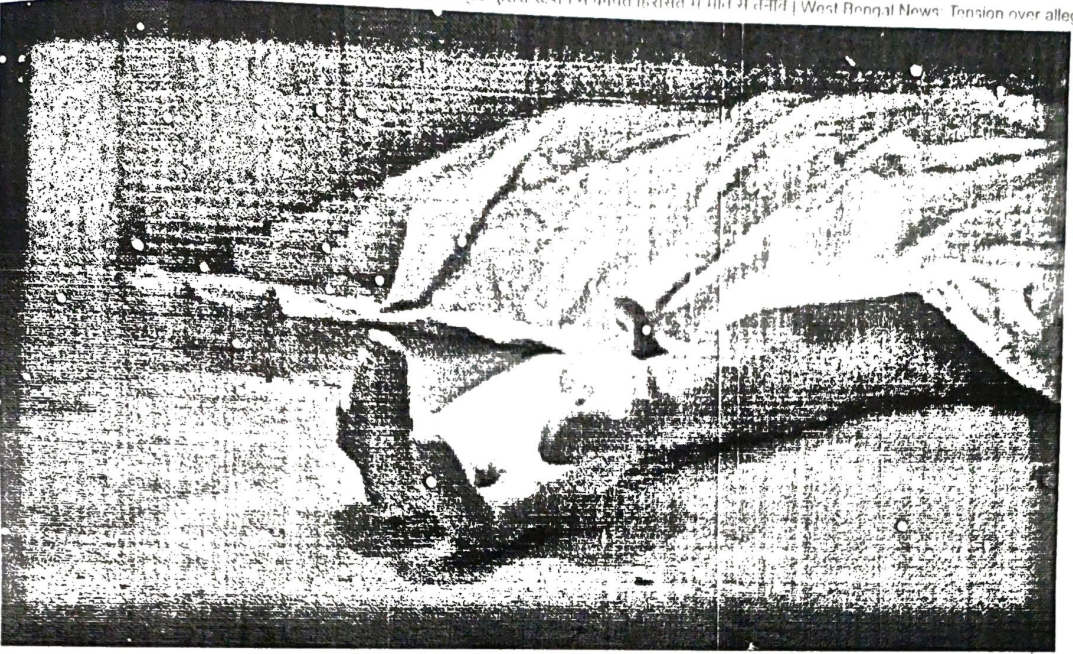
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11/16/23, 9:25 AM

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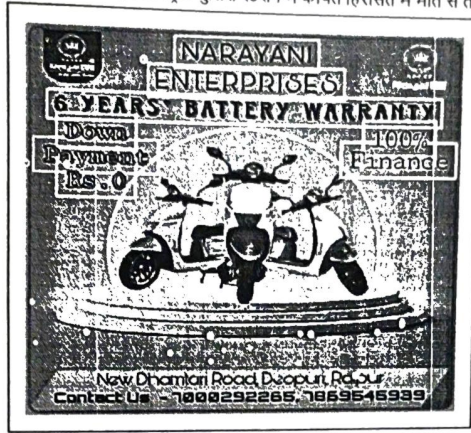


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Also Read - Prashant Kishore News: प्रशांत किशोर की चुनौती, तेजस्वी जीडीपी को परिभाषित कर दें, तो उनका झंडा ले लूंगा



मृतक की पहचान अशोक साव के रूप में की गई है, जो इलाके में सिगरेट और अन्य सामान बेचने का ठेला लगाता था। साव के परिवार के सदस्यों ने आरोप लगाया है कि उनके पड़ोसी का मोबाइल फोन चोरी करने का आरोप लगाने के बाद उन्हें एम्हर्स्ट स्ट्रीट पुलिस स्टेशन में बुलाया गया था। बुधवार की दोपहर वह थाने गए और कुछ देर बाद उनके परिजनों को पुलिस ने बताया कि थाने में साव की मौत हो गई है। मृतक के भतीजे बिजय साव ने मीडियाकर्मियों को बताया कि पुलिस द्वारा सूचित किए जाने के बाद साव की पत्नी रजनी साव एम्हर्स्ट स्ट्रीट पुलिस स्टेशन पहुंचीं।

Also Read - Jammu News: सेना ने उड़ी सेक्टर में घुसपैठ की कोशिश को किया नाकाम, दो आतंकवादी मार गिराए

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बिजय साव ने कहा, "वहां चाची ने मेरे चाचा का शव पुलिस स्टेशन परिसर में पड़ा देखा। उन्होंने उसके शरीर पर चोट के निशान भी देखे। यह स्पष्ट था कि पुलिस ने पूछताछ के नाम पर उसकी बुरी तरह पिटाई की, जिससे उसकी मौत हो गई।" स्थानीय भाजपा पार्षद सजल घोष ने मीडियाकर्मियों से बात करते हुए कहा कि मृतक के शव के कुछ वीडियो परिवार के सदस्यों द्वारा उन्हें उपलब्ध कराए गए हैं।

Also Read - Delhi News: दिल्ली के मुख्य सचिव के बचाव में उतरी भाजपा, दागी अधिकारियों पर नेताओं की चुप्पी पर उठाए सवाल



घोष ने कहा, "हमारी मांग सरल है। किसी भी स्थिति में पोस्टमार्टम किसी भी सरकारी अस्पताल में नहीं कराया जाना चाहिए। उस मामले में शव परीक्षण रिपोर्ट में हेरफेर करने की पूरी कोशिश की जाएगी। शव परीक्षण कमांड अस्पताल जैसे केंद्रीय अस्पताल में किया जाना चाहिए।"

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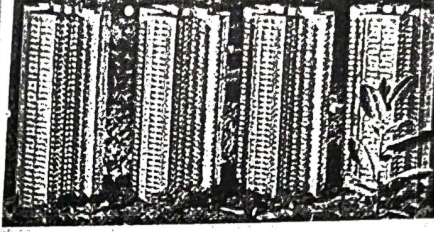
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99 acres

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Luxurious residences amidst greenery



Spread across 9 acres
4 and 5 BHK Apts.
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11/16/23, 9:25 AM

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Alleged custodial death sparks tension in Kolkata

November 15, 2023 | By Neel Shirodkar

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Kolkata, Nov 15, Tension is prevailing at the Amherst Street-College Street junction in central Kolkata since Wednesday evening after the alleged custodial death of a person at the Amherst Street police station earlier in the day.

The local people have blocked the busy College Street crossing, creating massive traffic congestion in the area. A huge police contingent is present at the spot, trying to persuade the agitators.

The deceased has been identified as Ashoke Sau, who ran a stall in the locality selling cigarettes and other items.

Sau's family members have alleged that he was summoned to the Amherst Street police station after being accused of stealing a mobile phone from his neighbour.

He went to the police station on Wednesday afternoon, and after some time his family members were informed by the police that Sau has expired at the police station.

Bijay Sau, a nephew of the deceased, told mediapersons that after being informed by the police, Sau's wife Rajani Sau rushed to the Amherst Street police station.

"There she saw my uncle's body lying at the police station premises. She even spotted injury marks on his body. It was evident that the cops had beaten him up in the name of interrogation, which led to his death," said Bijay Sau.

Speaking to mediapersons, local BJP councillor Sajal Ghosh said that some videos of the body of the deceased have been provided to him by the family members.

"Our demand is simple. Under no circumstances the post-mortem should be conducted at any state-run hospital. All attempts will be made to manipulate the autopsy report in that case. The autopsy has to be conducted at a central hospital, such as the Command Hospital," Ghosh said.

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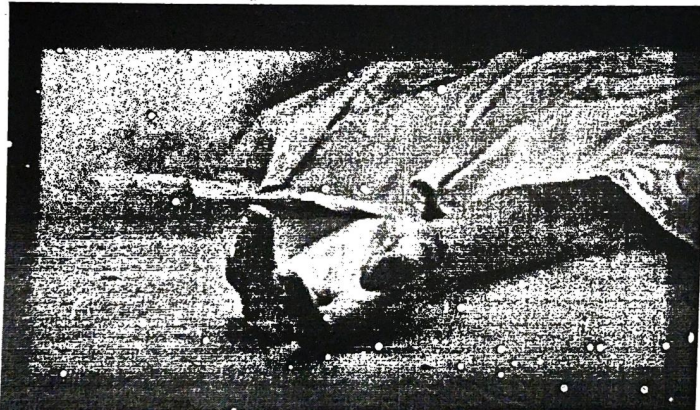
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Alleged custodial death sparks tension in Kolkata

November 15, 2023 | IANS New | National | 0



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410/4(50.0)		250/10(47.5)
India win by 160 runs		
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Match 44, ICC Cricket World Cup 2023		
ENG	vs	PAK
337/9(50.0)		244/10(43.3)
England win by 92 runs		
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▲ DAX	15,748.20	+133.74	+0.86%
▼ NIKKEI 225	33,265.80	-253.86	-0.76%
▼ SHANGHAI COMPOSI	3,053.13	-19.71	-0.64%
▼ NSE NIFTY	19,674.70	-0.75	0.00%

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11/6/23, 9:31 AM

Speaking to mediapersons, local BJP councillor Sajal Ghosh said that some videos of the body of the deceased have been provided to him by the family members.

"Our demand is simple. Under no circumstances the post-mortem should be conducted at any state-run hospital. All attempts will be made to manipulate the autopsy report in that case. The autopsy has to be conducted at a central hospital, such as the Command Hospital," Ghosh said.

-IANS

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Alleged Custodial Death Sparks Tension In Kolkata

By Odisha Diary Bureau On Nov 10, 2023

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Tension is prevailing at the Amherst Street-College Street junction in central Kolkata since Wednesday evening after the alleged custodial death of a person at the Amherst Street police station earlier in the day.

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2023, 9:33 AM

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Death Kolkata



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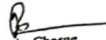


From: OC, Amherst Street P. S.

To: Sarat Jaiswal
S/o Ashok Kumar Jaiswal
4/5, Heramba Das Lane and 58B, Patuatola Lane, Kolkata-9
or any other family member of Ashok Kumar Singh S/o Ramaprit Prasad

Ref: Amherst Street P. S. U. D. Case no. 41 dt. 15.11.2023 and G. D. E. no. 1074 dt. 15.11.2023

You are hereby requested to make arrangement for attending Inquest and P. M. examination of deceased Ashok Kumar Singh (42) S/o Ramaprit Prasad of 58B, Patuatola Lane, Kolkata-9, by the relatives of the deceased Ashok Kumar Singh, to be held at Kolkata Police Morgue at 2/1, Nilmadhab Sen Lane, Kolkata-700073 at 14⁰⁰ hrs. today (16.11.2023).


Officer-in-Charge
Amherst Street P.S.
Officer-in-Charge
Amherst Street P.S.
16.11.2023

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District: Kolkata
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT
JURISDICTION
(APPELLATE SIDE)

W.P. A. (P) No. of 2022

In The Matter of:

An application under article 226 of
the Constitution of India;

And

IN THE MATTER OF:

Priyanka Tiberwal

...Petitioner

-VERSUS-

Union of India & Ors.

... Respondents

Advocate-on-Record
Priyanka Tiberwal
Advocate
Calcutta High Court
7C, Kiran Shankar Roy Road,
Kolkata- 700001
Mob: 9831305683