

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 372 of 2023

Dhiren Yadav	...	...			Appellant
		Versus			
The State of Jharkhand			...	...	Respondent

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD**

For the Appellant : Mr. Akhouri Awinash Kumar, Advocate
For the Respondent : Mr. Pankaj Kumar, P.P.
Mrs. Anuradha Sahay, APP
Mr. Anup Pawan Topno, APP

Order No. 16: Dated 30th April, 2026

- 1.** It is a case where the convict-appellant has died while in custody.
- 2.** The issue has been raised on behalf of the appellant [now deceased] that because of the medical negligence on the part of the State, the appellant [now deceased] has died.
- 3.** One Interlocutory Application being I.A. No. 5246 of 2026 has been filed for substitution of the legal representative of the appellant. However, the submission has been made by the learned counsel for the appellant that in the said Interlocutory Application no specific prayer has been made seeking leave of this Court to pursue the appeal by the legal representatives.
- 4.** Thereafter, the learned counsel for the appellant has submitted that the appeal in absence of any instruction by

the legal representative to pursue the appeal may be allowed to be abated.

5. Accordingly the instant appeal has been abated.

6. Further, the learned counsel for the appellant/legal representative has submitted that the larger issue of medical negligence in the different jails situated within the State of Jharkhand requires consideration. This Court has, therefore, called upon the State to file an affidavit with respect to the medical care to be provided to inmates inside the jails. For the aforesaid purpose, a report was directed to be obtained from DLSA from each jail through the Civil Surgeons of the concerned districts, who were required to visit the respective jails falling under their jurisdiction, accompanied by the Secretary of the District Legal Services Authority, so that a joint report has been called for passing further necessary orders, as is evident from order dated 11th March, 2026.

7. The report from 24 district of DLSA through JHALSA has been received, which is part of the record. The copy of the reports, so received from DLSA, had been handed over to Mr. Pankaj Kumar, learned P.P. appearing for the State for filing response.

8. Pursuant thereto, the response has been filed.

9. Learned counsel for the appellant pointing out the same, has submitted that out of 43 sanctioned vacancies of

doctors 42 posts are lying vacant. Further most of the doctors have been posted on deputation. Even the para medical staffs are not available, as would be evident from submission made by learned counsel for the State that for selecting the para medical staffs, the advertisement has been floated way back in the year 2025 but what is the position as of now, Mr. Pankaj Kumar, learned P.P., has submitted that he has no instruction.

10. This Court, upon consideration of lack of medical amenities, viz. doctors, paramedical staff, and essential medical equipment such as X-ray machines, ECG machines, and SPO₂ monitors (oxygen machines), finds the position herein to be contrary to Article 21 of the Constitution of India. It is well-settled that, irrespective of any distinction between inmates living inside the jail, they too are entitled to the protection guaranteed under Article 21 of the constitution of India, which encompasses the right to life and survival.

11. The posting of doctors on a substantive basis is at the core of the issue. If posts of doctors have already been sanctioned by the Government but remain unfilled, such omission is contrary to the mandate of Article 21 of the Constitution of India. The reason is evident: unless doctors are substantively posted, and instead are deputed on a temporary basis, proper medical care cannot reasonably be

expected in cases of emergency. The posts have been sanctioned specifically for the jails. It is further evident that in some jails, arrangements have been made for weekly deputation, particularly for female inmates, and in certain districts, such as Saraikela-Kharsawan, the arrangement is only on a monthly basis.

12. Once the State has sanctioned the post of doctors and para medical staffs for their posting on substantive basis in the jails, but reasons best known to the State, that why the posts are not being filled up.

13. We are living in an era wherein the right to life, or the right to survive, stands recognized as a fundamental right. There can be no disparity meted out to inmates, whether undertrial prisoners or convicts, they too are entitled to the full protection of Article 21 of the Constitution of India, which guarantees the right to life in its widest amplitude.

14. In such circumstances, this Court cannot remain a silent spectator when the issue, being of larger public interest concerning the welfare of jail inmates—whether undertrial prisoners or convicts is at stake.

15. In view of the foregoing, this Court deems it appropriate to take *suo motu* cognizance of the matter and to convert the present proceeding into one in the nature of “Public Interest Litigation”.

16. Registry is directed to place this matter before the Hon'ble Chief Justice for passing appropriate order.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

30th April, 2026
Alankar/-