

Leading cases for Advocates-on-Record Examination



Pollution Control Board to operate from December 15, 1996. Tanneries that failed to obtain consent were to be closed immediately. [Paragraph 8]

The Court directed the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the respective districts to close all tanneries that failed to obtain consent from the Board by the specified date. Such tanneries were not to be reopened unless permitted by the authority, which could also direct their permanent closure or relocation. [Paragraph 9]

Enforcement of Government Order and Compliance with Standards

The Court directed the enforcement of the Government Order No. 213 dated March 30, 1989, which prohibited the setting up of highly polluting industries, including tanneries, within one kilometer of water sources. The authority was tasked with reviewing the cases of industries already operating in the prohibited area and could direct their relocation. [Paragraph 10]

The standards stipulated by the Tamil Nadu Pollution Control Board regarding total dissolved solids (TDS), as approved by the National Environmental Engineering Research Institute (NEERI), were to be operative. All tanneries and other industries in Tamil Nadu were required to comply with these standards. [Paragraph 11]

Monitoring by the Madras High Court

The Supreme Court requested the Chief Justice of the Madras High Court to constitute a special "Green Bench" to deal with this case and other environmental matters. The Green Bench was given the liberty to pass any appropriate orders

while keeping in view the directions issued by the Supreme Court. [Paragraph 12]

V. Conclusion

The Supreme Court's judgment in the Vellore Citizens Welfare Forum v. Union of India case addressed the severe environmental degradation caused by the tanneries and other industries in Tamil Nadu. The Court issued comprehensive directions to control pollution, implement the principles of sustainable development and polluter pays, constitute an authority to assess and recover compensation, enforce compliance with pollution control measures, and monitor the implementation through a dedicated Green Bench in the Madras High Court.

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11. D.K. Basu vs State of West Bengal

JUSTICE KULDIP SINGH AND JUSTICE DR. A.S. ANAND

Read the judgment [here](#)

I. Introduction

The Supreme Court of India delivered this landmark judgment on December 18, 1996, in response to a writ petition filed by D.K. Basu, the Executive Chairman of Legal Aid Services, West Bengal. The petition drew attention to news reports of custodial violence and deaths in police lock-ups, highlighting the need to develop "custody jurisprudence" and formulate guidelines for awarding compensation to victims and ensuring accountability of errant officers. [Paragraph 1]

II. Custodial Violence and Torture: A Violation of Human Rights

The Court acknowledged that custodial violence, including torture and death in police custody, strikes a blow at the Rule of Law and is a matter of grave concern. It recognized that such acts are a violation of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution. [Paragraph 1]

The Court emphasized that "torture" is a naked violation of human dignity and a degradation of individual personality. It observed that custodial crimes involve not only physical suffering but also mental agony, which is beyond the purview of law. [Paragraph 2]

III. Constitutional and Statutory Safeguards

The Court highlighted the constitutional and statutory safeguards aimed at protecting personal liberty and preventing custodial violence, such as Articles 21 and 22 of the Constitution, and provisions in the Criminal Procedure Code. However, it noted that despite these safeguards, the incidence of custodial violence and deaths has been increasing, affecting the credibility of the Rule of Law and the criminal justice system. [Paragraph 3]

IV. Need for Scientific Interrogation and Accountability

The Court stressed the need for developing scientific methods of investigation and training investigators to interrogate suspects effectively while adhering to the law. It emphasized that the end cannot justify the means, and torture or third-degree methods are impermissible, even in cases involving hardened criminals or terrorists. [Paragraphs 3, 4]

To curb the abuse of police power, the Court underscored the importance of transparency and accountability. It suggested measures like contemporaneous recording and notification of arrests, the presence of counsel during interrogation, and proper training and orientation of police personnel consistent with human values. [Paragraph 4]

V. Requirements for Arrest and Detention

The Court issued specific requirements to be followed in all cases of arrest or detention until legal provisions are made, as preventive measures. These requirements include:

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1. Proper identification of police personnel handling the arrest and interrogation. [Paragraph 3(1)]
2. Preparation of a memo of arrest, attested by a witness and countersigned by the arrestee. [Paragraph 3(2)]
3. Informing a friend or relative of the arrestee about the arrest and place of custody. [Paragraph 3(3)]
4. Notifying the Legal Aid Organization and the concerned police station about the arrest and custody details. [Paragraph 3(4)]
5. Informing the arrestee of their right to have someone notified about the arrest. [Paragraph 3(5)]
6. Making an entry in the diary at the place of detention regarding the arrest and the names of the officials involved. [Paragraph 3(6)]
7. Recording any injuries on the arrestee's body at the time of arrest. [Paragraph 3(7)]
8. Subjecting the arrestee to medical examination every 48 hours during custody. [Paragraph 3(8)]
9. Sending copies of arrest-related documents to the concerned Magistrate. [Paragraph 3(9)]
10. Permitting the arrestee to meet their lawyer during interrogation. [Paragraph 3(10)]
11. Providing a police control room to display information about arrests and custody. [Paragraph 3(11)]

The Court warned that failure to comply with these requirements would render the concerned official

liable for departmental action and contempt of court proceedings. [Paragraph 4(1)]

VI. Compensation for Violation of Fundamental Rights

The Court recognized the need for monetary compensation as an effective remedy for the established infringement of fundamental rights by public servants. It held that the claim for compensation is based on strict liability, and the defense of sovereign immunity is not available to the State. [Paragraph 5]

The Court observed that public law proceedings serve a different purpose than private law proceedings, and the award of compensation under public law jurisdiction is an exercise to penalize the wrongdoer and fix liability on the State for failing to protect the fundamental rights of citizens. [Paragraph 5(2)]

The Court emphasized that monetary compensation is a useful and sometimes the only effective remedy to provide solace to the victim's family and apply balm to their wounds. It cited various judgments from India, Ireland, and other jurisdictions to support this view. [Paragraph 5(3)]

The Court clarified that the award of compensation under public law jurisdiction is in addition to traditional remedies like civil suits for damages and does not derogate from them. The compensation awarded by the Court may be adjusted against any damages awarded in a civil suit. [Paragraph 6]

VII. Conclusion

The Court appreciated the assistance rendered by the learned counsel and amicus curiae in this case.