

D.K. BASU VS. STATE OF WEST BENGAL¹

DK Basu versus the State of West Bengal is a landmark case that established guidelines related to custodial violence. Fought in the year 1997, the case brought forth the issue of the increasing number of custodial deaths and violence.

Based on various newspaper articles, DK Basu, chairman of Legal Aid Services, West Bengal, a non-profit organisation, wrote a letter to the Chief Justice of India in 1986. The newspaper articles dealt with the increasing custodial violence and deaths. D. K. Basu requested the CJI to address this issue by establishing suitable provisions for custodial jurisprudence and to offer compensation to the family members of those who had died in police custody. The Supreme Court, by gauging the seriousness of the matter, treated the letter as a Writ Petition. At the same time, CJI received another letter, written by Ashok K. Johari, addressing the issue of the death of a person named Manohar in police custody. The Supreme Court formed a bench of two judges for the hearing.

Question of Law

The major question of law before the court was whether the custodial violence or death violates the Right to Life of an individual enshrined in Article 21. Also, whether the prisoners behind bars are safeguarded under Article 21. Deliberations were also held on the accountability of the police in custodial violence and death. Other than this, the grounds on which compensation should be given were also debated.

Judgment

The court held that custodial violence and death violate the right to Life of an individual as well as violate Article 22(1), which provides the right to an arrested person to know the reason for arrest and seek legal counsel. The Court, in its Judgment, stated that third degree methods are totally unacceptable and interrogation should be held on a humane basis. The Court recognised that the policemen perpetrating the custodial violence are often left without any serious actions. To curb this and ensure accountability, the Court formed guidelines in cases of arrest and detention. It included provisions like medical examination of the arrested individual within 48 hours, the necessary procedure for arrest to be followed by the police and setting up of a police control room in every district and state headquarters to collect information. Additionally, the court held that violence perpetrated by the public servants of the State also makes the State liable. In such cases, monetary compensation should be provided by the State.

References

DK Basu versus State of West Bengal AIR 1997 SUPREME COURT 610

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