



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

D.B. Habeas Corpus Petition No. 282/2026

Smt. Bhanwari Devi W/o Shri Ghamandnath, Aged About 66  
Years, Resident Of Village Nayagoan, Tehsil Deh, District Nagaur  
(Rajasthan).

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary,  
Home Department, Government Of Rajasthan, Jaipur.
2. The Superintendent Of Police, Nagaur.
3. The Station House Officer, Police Station Surpalia, District  
Nagaur (Rajasthan).
4. Tehsildar, Deh, District Nagaur.

----Respondents

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For Petitioner(s) : Mr. Jogendra Singh

Mr. Moti Singh

For Respondent(s) : Mr. Deepak Choudhary, GA-cum-AAG

assisted by Mr. Kuldeep Singh

Mr. Tejpal Pareek, Tehsildar Deh, P.S.

Surpaliya

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**HON'BLE MR. JUSTICE FARJAND ALI (VACATION JUDGE)**

**HON'BLE MR. JUSTICE SUNIL BENIWAL (VACATION JUDGE)**

**Order**

**Reportable-**

**Date of Conclusion of Arguments : 10/06/2026**

**Date on which Order is Reserved : 10/06/2026**

**Full Order or Operative Part** :**Full Order****Date of Pronouncement** :**12/06/2026****By the Court-(Per Hon'ble MR. FARJAND ALI,J.)****Grievance of the Case**

1. By way of the present proceedings, the petitioner seeks redressal against the illegal and continued detention of her husband, Shri Ghamandnath, despite the suspension of the order of civil imprisonment by the competent Appellate Authority vide order dated 15.04.2026. The grievance of the petitioner is that notwithstanding the subsistence of the appellate order directing suspension of sentence and consequent release of the detenu, the respondent authorities, particularly respondent No.4, failed to act in accordance with law and continued to confine the detenu for approximately 53 days, compelling the petitioner to invoke the extraordinary jurisdiction of this Court by filing a Habeas Corpus Petition. Though the detenu ultimately came to be released pursuant to the order dated 08.06.2026 passed by this Court, the petitioner further seeks adjudication upon the issue of illegal deprivation of personal liberty, fixation of accountability upon the erring officials, and grant of appropriate compensation for violation of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India.





## Facts

2. The present matter arises out of proceedings initiated under Section 91 of the Rajasthan Land Revenue Act, 1956 in relation to alleged encroachment upon Government land bearing Khasra No. 28/208, measuring 0.1660 hectare, recorded as Gair Mumkin Rasta in Village Nayagaon, Tehsil Deh, District Nagaur. Upon reports submitted by the Patwari and Land Records Inspector alleging unauthorized cultivation and obstruction of the public pathway by Shri Ghamandnath, proceedings under Section 91 of the Act of 1956 were initiated. After considering the material placed on record, the learned Naib Tehsildar, Deh, vide order dated 05.03.2026, held Shri Ghamandnath guilty of unauthorized encroachment over Government land and, in exercise of powers under Section 91(3) of the Act of 1956, sentenced him to undergo three months' civil imprisonment besides imposing a monetary penalty and issuing consequential directions regarding removal of encroachment and execution of the sentence. The appeal preferred against the said order before the District Collector, Nagaur came to be dismissed on 09.04.2026.
3. Aggrieved thereby, Shri Ghamandnath preferred a further appeal before the learned Additional Divisional Commissioner, Ajmer, registered as Appeal/LR-75/No.103/2026. During pendency of the appeal,





he submitted an affidavit dated 15.04.2026 relinquishing possession over the disputed land and expressing willingness to remove the alleged encroachment. Taking note thereof, the learned Additional Divisional Commissioner, vide order dated 15.04.2026, suspended the operation of the sentence of civil imprisonment awarded by the learned Naib Tehsildar till the next date of hearing i.e. 12.06.2026. According to the petitioner, despite the suspension order having been obtained and repeatedly brought to the notice of respondent No.4, including by personally approaching the authorities with a certified copy thereof, the detinue was not released and continued to remain in confinement. Left with no alternative efficacious remedy and alleging that the continued detention was wholly without authority of law and violative of Articles 14 and 21 of the Constitution, the petitioner-wife approached this Court by filing the present Habeas Corpus Petition seeking immediate production and release of her husband from illegal custody.

4. That upon consideration of the pleadings and submissions advanced on behalf of the parties, this Court was pleased to pass a detailed order dated 08.06.2026. Since the observations recorded therein have a direct bearing upon the issues of illegal detention, continued deprivation of personal liberty despite suspension of sentence and the conduct of the concerned authorities, the relevant observations and directions contained in the order dated 08.06.2026 deserve





reproduction and are reproduced hereinbelow for ready reference:

"1. The instant habeas corpus petition has been filed on behalf of the wife of the detenue, alleging that though her husband was convicted by the learned Naib Tehsildar, Deh, District Nagaur vide order dated 05.03.2026 and sentenced to undergo civil imprisonment for a period of 90 days, he preferred an appeal before the Additional Divisional Commissioner, Ajmer (hereinafter referred to as "Appellate Authority") registered as LR-75/No.103/2026 along with an application seeking suspension of sentence. The said application was allowed and vide order dated 15.04.2026, the order of sentence passed by the respondent Naib Tehsildar, Deh was suspended and the detenue was directed to be released. A copy of the order dated 15.04.2026 (Annexure-4) suspending the sentence till 12.06.2026 is very much available on record.

2. It is the grief of the petitioner that she herself appeared before the Tehsildar along with a copy of the order dated 15.04.2026 but the respondent was so obstinate that he denied from taking on record the certified copy of the order suspending the sentence. His stubbornness did not end up here and despite repeated requests made by the petitioner for releasing her husband, the Tehsildar did not pay any heed rather flouted the order of the Appellate Authority. According to the learned counsel for the petitioner, such conduct amounts to a brazen defiance of the order





*passed by the Appellate Authority and direct infringement of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India.*

*3. Shri Moti Singh, learned counsel for the petitioner, drew the attention of this Court to the fact that the present writ petition was instituted on 14.05.2026 and a copy thereof was supplied to the learned counsel appearing for the State. He further referred to the order dated 15.05.2026 passed by the Coordinate Bench of this Court issuing notice to the respondent in the presence of the learned Public Prosecutor, Shri C.S. Ojha. It is, therefore, urged that the factum of suspension of the sentence was well within the knowledge of the respondent No.4 - Tehsildar, yet the detinue was not released from custody.*

*4. Learned Additional Advocate General informed this Court that pursuant to the issuance of notice by the Co-ordinate Bench on 15.05.2026, the Superintendent of Police was also apprised of the institution of the present writ petition.*

*5. We pondered over the issue and are prima facie of the considered opinion that the order of sentence dated 05.03.2026 passed by the respondent No.4, who is present in person before this Court today, was suspended by the Appellate Authority on 15.04.2026. The assertion made by the petitioner is that soon after getting the certified copy of the order of the Appellate Authority, the same was made available to the learned Tehsildar, but of no*





*avail does not seem untrue since we feel that no person detained in custody would keep the copy in his hand and would not be keen, eager or excited to produce the same before the competent authority for getting released as that ordinarily happens in the normal course of nature.*

6. *Shri Tejpal Pareek, learned Tehsildar, present in person, vehemently and fervently urges that he was not aware about the order of suspension of sentence passed by the Appellate Authority. Upon being asked as to why the petitioner would not serve a copy on him, he is not in a position to convince this Court. The judicially noticeable fact remains that on 15.05.2026, the Co-ordinate Bench of this Court had issued notices to the learned Public Prosecutor. It is not comprehensible as to why a person detained and in whose favour an order of release has been passed would not communicate the order to the competent authority.*

7. *Despite the above, we are of the considered opinion that before condemning any person, a reasonable opportunity of hearing must be afforded to him. Though we have heard him orally, we still grant him further time to file his response in writing.*

8. *Since no material has been placed on record to controvert the fact that the order of sentence remains in currency and the husband of the petitioner is not detained in connection with any other matter, therefore, prima facie there*





*appears to be no doubt that as on date, his detention is not in accordance with law.*

*9. In the peculiar circumstances of the case, when prima facie it appears that the husband of the petitioner has been detained not in accordance with law, his detention cannot be continued even for a single day. Thus, it is ordered that he be released forthwith in accordance with the order passed by the learned Appellate Authority.*

*10. Shri Tejpal Pareek, learned Tehsildar, shall ensure that the husband of the petitioner is released before 5:00 PM today.*

*11. List the matter on 10.06.2026 to see the compliance and response of the errant respondent No.4."*

5. Accordingly, respondent No.4 was directed to ensure his immediate release, which ultimately took place on the evening of 08.06.2026.

6. Before proceeding further, and merely for the sake of clarity of facts, it deserves to be noted that it is not the case of any of the respondents that the husband of the petitioner was required to be detained in connection with any other criminal, civil or revenue proceeding. On the contrary, the material available on record unequivocally indicates that the detention of the detinue was solely referable to the order of civil imprisonment passed in the proceedings under Section 91 of the Rajasthan Land Revenue Act, 1956. Thus, there is





no dispute that the confinement continued exclusively on account of the sentence which had already been suspended by the competent Appellate Authority vide order dated 15.04.2026.

6.1 Thus after the order dated 08.06.2026, the petitioner filed an additional affidavit bringing on record that the detinue, who is suffering from HIV and requires continuous medical treatment, had remained unlawfully confined for approximately 53 days despite the suspension order, causing serious prejudice to his health and liberty. It was further asserted that the petitioner herself is a cancer patient and was deprived of necessary care and support during the period of illegal detention. The petitioner also sought compensation for violation of fundamental rights and an independent inquiry for fixation of responsibility upon the officials concerned. During the hearing held on 10.06.2026, while the Tehsildar denied prior knowledge of the suspension order, he admitted having received knowledge thereof on 01.06.2026. This Court observed that even according to the officer's own stand, the detinue ought to have been released immediately upon such knowledge and, since the release was effected only after intervention of this Court on 08.06.2026, the matter required serious consideration. Consequently, after taking the affidavit of the Tehsildar on record and noting the aforesaid circumstances, this Court reserved order on 10.06.2026.





6.2 Before proceeding further, this Court deems it appropriate to observe that it is a settled and fundamental principle governing the exercise of judicial power that no person ought to be condemned unheard and that before passing any order carrying adverse civil consequences or otherwise affecting the rights, reputation or position of a party, a fair and reasonable opportunity of hearing must be afforded. It was for this reason that, despite the prima facie observations recorded in the order dated 08.06.2026, this Court considered it necessary to grant respondent No.4 adequate opportunity to explain his conduct. Accordingly, respondent No.4-Tehsildar was heard at considerable length and was further permitted to place his explanation on record by way of a written response. Pursuant thereto, he submitted his affidavit/response, which was taken on record and duly considered. As per the stand taken therein, the respondent himself admits that he acquired knowledge of the order dated 15.04.2026 suspending the sentence on 01.06.2026.

6.3 During the course of hearing, learned Additional Advocate General Shri Deepak Choudhary also addressed submissions on behalf of the State. In his capacity as a responsible officer of the Court, he submitted that pursuant to the order dated 15.05.2026 passed by the Coordinate Bench, he had personally spoken to the Superintendent of Police and apprised him of the pendency of the present





proceedings and the grievance regarding the continued detention of the detenu. Learned Additional Advocate General further submitted that he was informed by the Superintendent of Police that the requisite information had thereafter been duly forwarded to the District Collector and the concerned authorities for necessary action.

6.4 It is also noteworthy that there is no dispute inter se the parties on the foundational fact that the order dated 15.04.2026 passed by the learned Additional Divisional Commissioner suspending the sentence of civil imprisonment was validly passed and remained operative. Indeed, both respondent No.4 as well as learned Additional Advocate General fairly conceded that the sentence imposed upon the detenu stood suspended under the aforesaid order. It is further not disputed that the said order of suspension continued to remain in force throughout the relevant period and was subsisting on the date when this Court passed the order directing the release of the detenu.

7. Having considered the material available on record, the affidavit placed by the petitioner, the response submitted on behalf of respondent No.4 and the submissions advanced by the respective parties, this Court finds that certain aspects arising out of the continued detention of the detenu despite suspension of sentence require close scrutiny. Since the detenu has already been released pursuant to the directions





issued by this Court, the principal issues which now fall for consideration relate to the legality of the detention already undergone, the adequacy of the explanation furnished by the concerned authorities, the impact of such detention upon the constitutional guarantee of personal liberty and the consequential relief, if any, to which the petitioner and the detenu may be held entitled.

8. Heard learned counsel appearing for the petitioner, learned Additional Advocate General Shri Deepak Choudhary on behalf of the State, and respondent No.4-Tehsildar, who was personally heard by this Court. The matters available on record have been carefully perused and considered.

## **OBSERVATIONS & ORDER**

### **I. NATURE OF PROCEEDINGS AND CONSTITUTIONAL**

#### **BACKDROP**

9. The present petition, filed invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, raises questions of grave constitutional import touching upon the inviolability of personal liberty, the supremacy of judicial and quasi-judicial orders, and the accountability of public functionaries who, cloaked in the mantle of State authority, dare to defy the mandate of law. The writ of habeas corpus that ancient and most celebrated safeguard of human freedom has been invoked by the petitioner-wife on behalf of her husband, Shri Ghamandnath,





who was made to languish in illegal detention for approximately 53 days, notwithstanding the existence of a valid and operative order of suspension of sentence passed by the competent Appellate Authority.

10. The sanctity of the writ of habeas corpus transcends the boundaries of any single legal system. Lord Halsbury, delivering the judgment of the House of Lords in **Cox v. Hakes (1890) LR 15 AC 506 (HL)**, declared that 'for a period extending as far back as our legal history, the writ of habeas corpus has been regarded as one of the most important safeguards of the liberty of the subject.' The lineage of this writ stretches from the Magna Carta of 1215, whose celebrated Clause 39 proclaimed that 'No free man is to be arrested, or imprisoned... except by the lawful judgment of his peers or by the law of the land,' through the Habeas Corpus Act of 1679 in England, and thence to the shores of India through the Regulating Act of 1773, ultimately finding its most exalted expression in the fundamental rights chapter of the Constitution of India, 1950.

11. It was P.N. Bhagwati, J. (as he then was), speaking for a Constitution Bench in **Kanu Sanyal v. District Magistrate, (1973) 2 SCC 674**, who observed that the writ of habeas corpus 'is essentially a procedural writ. It deals with the machinery of justice, not the substantive law. The object of the writ is to secure release of a person who is illegally





restrained of his liberty.' H.R. Khanna, J., in his immortal dissent in ADM, **Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521** a dissent that history has vindicated with full honour , described the writ as 'a process for securing the liberty of the subject by affording an effective means of immediate release from unlawful or unjustifiable detention, whether in prison or in private custody.' V.R. Krishna Iyer, J., in his inimitable prose in **Sunil Batra (2) v. State (UT of Delhi), (1980) 3 SCC 488**, sounded the constitutional imperative in memorable terms: 'The rule of law meets with its Waterloo when the State's minions become law-breakers and so the court, as the sentinel of the nation and the voice of the Constitution, runs down the violators with its writ and secures compliance with human rights even behind iron bars.'

12.The power to issue writs under Articles 32 and 226 of the Constitution has been declared to be a part of the basic structure of the Constitution. It represents an inalienable and indispensable constituent of the constitutional fabric. When this Court is moved in the exercise of this jurisdiction, it does not merely adjudicate upon an individual dispute , it affirms, in the most solemn terms, the promise that the Constitution makes to every citizen: that no arm of the State, however powerful, however entrenched in bureaucratic inertia, however blinded by personal obstinacy, shall deprive any person of liberty save in strict accordance with the procedure established by law. The present case has compelled this Court





to confront a situation where that promise was brazenly dishonoured by a functionary of the State in a manner that this Court finds shocking, reprehensible, and wholly unworthy of anyone sworn to serve the constitutional order.

## **II. THE MEANING AND CONTENT OF ILLEGAL DETENTION**

13. Before proceeding to examine the conduct of respondent No. 4, it is imperative that this Court set out, with precision, what constitutes 'illegal detention' in the constitutional sense. The expression admits of no single statutory definition, but its contours have been illuminated by a long line of judicial pronouncements, both domestic and international, which converge upon the irresistible conclusion that the deprivation of personal liberty, without lawful authority or in violation of the procedure established by law, constitutes a wrong of the gravest order against both the individual and the constitutional order.

14. The Hon'ble Supreme Court of India, in the recent judgment of ***Daudayal v. State of Rajasthan & Ors., 2026 INSC 599***, decided on 29th May 2026, has articulated the concept of illegal detention in the following comprehensive terms: 'The deprivation of liberty by the State without lawful authority or in violation of provisions of the Constitution is illegal detention.'

15. The Court further elaborated that illegal detention involves actual custody from which the individual is not free to leave;





that it lacks a valid legal basis, including where any purported authority is void or expired; that even where a law permits detention, it becomes illegal if the procedure followed is not just, fair, and reasonable; and that it covers situations where the power to detain is exercised arbitrarily, for an improper purpose, or in bad faith.

16. The concept of personal liberty enshrined in Article 21 of the Constitution of India is not a mere textual guarantee. It represents the distilled wisdom of centuries of civilizational struggle against arbitrary power. The framers of the Constitution, having witnessed the horrors of colonial subjugation and the systematic destruction of individual dignity, chose to place the right to life and personal liberty at the very heart of the fundamental rights chapter. Article 21 proclaims, in terms absolute and unequivocal, that 'No person shall be deprived of his life or personal liberty except according to procedure established by law.' This guarantee admits of no exception save those expressly carved out by the Constitution itself.

17. The international dimension of this guarantee cannot be overlooked. **Article 9 of the Universal Declaration of Human Rights, 1948**, proclaims that 'No one shall be subjected to arbitrary arrest, detention or exile.' **Article 9(1) of the International Covenant on Civil and Political Rights, 1966** to which India is a signatory, states that 'Everyone has the right to liberty and security of person. No





one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.' More specifically, **Article 9(5)** of the said Covenant expressly provides that 'Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.' The Hon'ble Apex Court in ***Nilabati Behera v. State of Orissa, (1993) 2 SCC 746***, took cognizance of Article 9(5) of the ICCPR while awarding compensation for violation of Article 21, thereby affirming that the international law obligation and the constitutional mandate march in the same direction.

18. The maxim '*ubi jus ibi remedium*' -where there is a right, there is a remedy , is the foundational principle upon which the entire edifice of constitutional remedies rests. Personal liberty is the most precious of all rights. The Latin expression '*salus populi suprema lex esto*'- the welfare of the people is the supreme law , finds its highest expression, in the context of individual rights, in the protection of personal liberty from the tyranny of State power. When a person is deprived of liberty by a public functionary acting without authority, in defiance of judicial orders, and in utter disregard of constitutional guarantees, the injury suffered is not merely of a private or individual character. It is an injury to the constitutional order itself. It is a wound inflicted upon the body politic. It is an assault upon the rule of law.





19. In the present case, the order of suspension of sentence was passed by the learned Additional Divisional Commissioner, Ajmer, vide order dated 15.04.2026, which remained in full force and effect until 12.06.2026. From the moment that order came into existence, the continued detention of Shri Ghamandnath ceased to have any legal basis whatsoever. The sentence, having been suspended, could not be executed. The detenu was entitled to his liberty as a matter of constitutional right. Every single hour of his confinement thereafter was an hour of illegal imprisonment, an hour during which the State, acting through its functionary, committed a continuing constitutional wrong of the most serious character.

As poignantly observed by Oscar Wilde-

*"I know not whether Laws be right,  
or whether Laws be wrong;*

*all that we know who be in jail is that the wall is strong;  
and that each day is like a year, a year whose days are long."*

Though expressed in a literary context, the sentiment captures with remarkable force the harsh reality of unlawful confinement, where each passing day constitutes a renewed assault upon personal liberty. In a constitutional democracy governed by the rule of law, such deprivation of freedom, despite a subsisting order suspending the sentence, cannot be viewed as a mere administrative lapse but must be





recognized as a grave infringement of the detenu's fundamental rights.

20. This Court considers it necessary to emphasise that the present case is not one in which the detenu's confinement was illegal from its inception. The initial detention of Shri Ghamandnath was founded upon lawful authority and was undertaken in exercise of powers vested in respondent No. 4 under Section 91 of the Rajasthan Land Revenue Act. At the stage of commencement, therefore, the custody of the detenu was supported by law and cannot be characterised as unlawful. The illegality arose subsequently. Once the learned Additional Divisional Commissioner, Ajmer, passed the order dated 15.04.2026 suspending the sentence, the legal foundation upon which the detenu's continued confinement rested stood eclipsed. From the moment respondent No. 4 acquired actual or constructive knowledge of the said suspension order, he became duty-bound to give effect thereto and restore the detenu's liberty. Any continuation of custody thereafter ceased to be protected by lawful authority and assumed the character of illegal detention. The distinction is of considerable importance. The gravamen of the present case is not that the detenu was initially confined without authority of law, but that a detention which was lawful at its inception was unlawfully prolonged after the very basis of such detention had ceased to exist. In constitutional





terms, the transition from lawful custody to unlawful confinement occurred the moment the subsisting order suspending the sentence ought reasonably to have been acted upon, but was not.

**III. HUMAN LIBERTY AS A SACROSANCT AND INVIOLEABLE VALUE: A DEEPER ANALYSIS**

21. This Court deems it necessary to articulate, at some length, the philosophical and constitutional foundations of personal liberty, because the facts of this case reveal a disturbing indifference on the part of a public functionary to the most elementary precepts upon which constitutional governance rests. It is not merely a technical legal error that stands condemned in these proceedings. What stands condemned is an attitude , an attitude of arrogance, of impunity, of contempt towards both the law and the human being whose life and freedom that law was designed to protect.

22. Personal liberty is antecedent to the Constitution. It is not a creation of the Constitution; the Constitution merely recognises, affirms, and guarantees a right that inheres in every human being by virtue of his or her humanity. The celebrated philosopher John Locke identified liberty as one of the inalienable natural rights with which every person is endowed. The preamble to the Constitution of India secures to all citizens, inter alia, liberty of thought, expression, belief, faith and worship, and speaks of the fraternity that assures





the dignity of the individual. Personal liberty , liberty of the body, liberty from arbitrary confinement, liberty from State coercion , is the condition sine qua non for the enjoyment of all other rights. A person deprived of liberty is deprived of his capacity to exercise any other right. He is reduced, in the most literal sense, to an object of State power rather than a subject of constitutional rights.

23. This Court, in **Maneka Gandhi v. Union of India, (1978) 1 SCC 248** one of the landmark constitutional pronouncements of the post-Emergency era , gave the guarantee of personal liberty under Article 21 an expansive interpretation. The Court held that the procedure established by law, in order to be valid, must be 'right, just, and fair' and not 'arbitrary, fanciful or oppressive.' The Court further held that Articles 14, 19, and 21 are not mutually exclusive but must be read together, so that any law or executive action depriving a person of life or personal liberty must satisfy all three constitutional guarantees simultaneously. The principle of due process , though not expressly used was incorporated into the constitutional framework through the expansive reading of Article 21.

24. In the present case, even the narrow technical requirements of a lawful detention were absent. There was no order of any competent authority sustaining the detention. The sentence had been suspended. The detenu had furnished an affidavit before the appellate authority relinquishing possession of the





disputed land. The appellate authority had, in express terms, directed suspension of the sentence. Yet the detenu continued to be confined. If there is a paradigmatic instance of detention that is not merely illegal in a technical sense but illegal in every conceivable sense morally, constitutionally, and legally it is the detention of Shri Ghamandnath after 15.04.2026.



25. The Hon'ble Supreme Court, in ***Rudul Shah v. State of Bihar, (1983) 4 SCC 141***, made the seminal observation that Article 21 would be 'denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention.' That celebrated judgment, which first established the principle of compensatory public law remedy for violation of Article 21, arose from a situation where a person continued to be detained for fourteen years after the order of his release. The Court held: 'The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilisation is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy.'

26. The words of the Hon'ble Supreme Court in Rudul Shah are as relevant today as they were in 1983. The manner in which Shri Ghamandnath , a poor cultivator from the rural lower



strata of society, suffering from HIV and dependent upon continuous medical treatment was subjected to prolonged illegal confinement, even as his wife (herself a cancer patient) repeatedly and desperately approached the authorities for his release, is a story not merely of administrative failure but of callous indifference to human suffering that shocks the conscience of this Court. Personal liberty is not a luxury that the powerful alone enjoy and the poor must beg for. It is a constitutional guarantee equally available to every person regardless of economic status, social position, or physical condition. When the State through the obstinacy of a single functionary subjects a sick, impoverished man to fifty-three days of illegal confinement while his ailing wife pleads in vain at the gates of officialdom, it betrays the foundational promise of the Constitution in the most egregious manner.

What renders the matter even more distressing is that both the detinue and his wife were battling serious and potentially life-threatening medical conditions during the period in question. The detinue required continuous treatment for HIV, while the petitioner-wife, a cancer patient, was simultaneously deprived of the companionship, care and support of her husband. The consequences of the illegal detention, therefore, were not confined merely to a deprivation of physical liberty; they extended into the realm of human suffering, medical vulnerability and familial





distress. This Court is constrained to observe that such conduct cannot be described as merely insensitive or inhumane. The prolonged continuation of custody in the face of a subsisting order suspending the sentence, despite its grave impact upon two medically fragile individuals, assumes a character that is nothing short of diabolical. In a constitutional democracy governed by the rule of law, no public functionary can be permitted to treat human liberty and human suffering with such alarming indifference.

#### **IV. THE CONDUCT OF RESPONDENT NO. 4: AN EXAMINATION**

27. This Court has examined, with great care, the conduct of respondent No. 4, Shri Tejpal Pareek, learned Tehsildar, Deh, in relation to the continued detention of the detenu following the suspension order dated 15.04.2026. The picture that emerges is deeply troubling and merits detailed examination.

28. The first matter that requires attention concerns knowledge of the appellate order. The learned Additional Divisional Commissioner, Ajmer, passed an order on 15.04.2026 expressly suspending the sentence of civil imprisonment awarded by respondent No. 4 himself. Under the ordinary course of administrative and revenue practice, such an appellate order would be communicated to the subordinate authority i.e., the Tehsildar as a matter of course. It would be wholly incongruous to suggest that an appellate forum can





pass an order suspending the sentence of a subordinate officer without that order finding its way to the very office charged with the execution of that sentence. The presumption arising in law '*omnia praesumuntur rite esse acta*' (All things are presumed to have been done rightly and regularly.) This is a well-established maxim of law which essentially means that all official and judicial acts are presumed to have been performed correctly, lawfully, and in accordance with the prescribed procedure, unless the contrary is proved. It cuts both ways: if the appellate authority passed an order of suspension, it must be presumed that proper intimation was sent through official channels to the subordinate executing authority.

There is yet another circumstance which renders the plea of complete ignorance difficult to accept. Proceedings before the District Collector, the Revenue Appellate Authority, the Divisional Commissioner, and even the Board of Revenue are not conducted in isolation from the administrative machinery whose orders are under challenge. In the ordinary course, the State and its revenue officers are represented before such forums through designated Government Counsel or law officers specifically entrusted with defending and conducting revenue litigation on behalf of the concerned authorities. The existence of such institutional representation ensures a regular channel of communication between the appellate forum, the Government counsel appearing therein, and the





departmental authorities whose orders are the subject matter of challenge. Consequently, the passing of an appellate order suspending the sentence imposed by the Tehsildar was not an event that would ordinarily remain confined to the knowledge of the litigating party alone; rather, it was one that would reasonably be expected to come to the notice of the official machinery concerned with the execution and defence of the impugned order. This constitutes an additional circumstance lending support to the inference that knowledge of the appellate order was available, or at the very least readily available, within the official framework long before the stand now sought to be projected by respondent No. 4.

29. Second, and more significantly, the petitioner herself has deposed, on oath, that she personally appeared before respondent No. 4 with a certified copy of the suspension order and requested the release of her husband. This Court, in its order dated 08.06.2026, recorded the following observation, which deserves to be reproduced:

*'The assertion made by the petitioner is that soon after getting the certified copy of the order of the Appellate Authority, the same was made available to the learned Tehsildar, but of no avail does not seem untrue since we feel that no person detained in custody would keep the copy in his hand and would not be keen, eager or excited to produce the same before the competent authority for getting released as that ordinarily happens in the normal course of nature.'*





This reasoning, rooted in sound human psychology and common sense, carries the full weight of legal logic. A person who has secured an order of release from an appellate authority would be desperate to have that order acted upon. The suggestion that the petitioner obtained a certified copy of the appellate order and thereafter failed or omitted to present it to the executing authority defies all reason and human experience.

Indeed, the very conduct of the detinue in pursuing the statutory appellate remedy furnishes a strong indicator of his desire to secure release from custody. It is inconceivable that a person who had no intention of obtaining liberty would undertake the exercise of filing an appeal, seeking suspension of sentence, furnishing an affidavit before the appellate authority, and obtaining a favourable order suspending his confinement. The fact that the detinue successfully obtained an order of suspension of sentence from the learned Additional Divisional Commissioner leaves little room for doubt that he intended to avail himself of the relief granted and regain his freedom. If the detinue had no desire to be released, there would have been no occasion for him to challenge the order of imprisonment or seek suspension thereof in the first place. The very fact that such proceedings were initiated and pursued to a successful interim outcome renders wholly implausible the suggestion that the





suspension order was not promptly communicated or sought to be acted upon by the detenu and his family.

30. Third, even if the claims of the petitioner regarding personal presentation of the suspension order are treated as disputed, as respondent No. 4 appears to urge the fact remains that on 15.05.2026, a coordinate bench of this Court issued notice to the respondents in the presence of the learned Public Prosecutor. It was further submitted on behalf of the State that the Superintendent of Police was also apprised of the institution of the writ petition after notice was issued. This Court also takes note of the statement made by learned Additional Advocate General Shri Deepak Choudhary, as recorded in the order-sheet, that upon being informed of the institution of the present habeas corpus proceedings, the Superintendent of Police had, in turn, communicated the relevant information to the District Collector as well as to the concerned authorities responsible for dealing with the matter. This circumstance further reinforces the inference that the factum of the pending proceedings and the grievance regarding the continued detention of the detenu had permeated the administrative hierarchy and could not have remained confined to a single office or functionary. There is no requirement in law that every individual respondent must be served personally with notice of a court proceeding for knowledge to be imputed to them. The State speaks through all its functionaries. When the machinery of the State





including the public prosecutor and the senior police officer was put on notice of illegal detention, the knowledge of the State as an entity must be attributed to all its limbs engaged in the execution of the impugned detention.

31. Fourth, and most damningly, respondent No. 4 himself, in his affidavit filed before this Court, does not dispute that he came to know of the suspension order on 01.06.2026. This admission is of the highest legal and constitutional significance. Even proceeding on the most charitable possible interpretation of the Tehsildar's own case that he was genuinely unaware of the appellate order until 01.06.2026 the fact remains that upon acquiring knowledge, he took no steps whatsoever to release the detenu, notwithstanding the undisputed position that the detenu was not required to be detained in connection with any other case, proceeding, or lawful authority. There existed no independent legal impediment to his immediate release. From 01.06.2026 to 08.06.2026, a period of seven days elapsed. During this period, respondent No. 4 armed with actual, admitted knowledge of the suspension order continued to keep Shri Ghamandnath in illegal confinement. This continued detention, in the face of admitted knowledge, is not merely an administrative failure. It is a conscious, deliberate, and wilful deprivation of personal liberty in defiance of the order of a superior authority. It is, in the language of constitutional law, a gross violation of Article 21.





32. Fifth, even more extraordinary is the conduct of respondent No. 4 when he appeared before this Court on 08.06.2026. This Court recorded that he 'vehemently and fervently' urged that he was unaware of the suspension order and yet could not provide any satisfactory explanation for why the petitioner would not have served a copy upon him. He stood before this Court on that date with the detinue still in unlawful custody. He ought to have come to this Court, had the detinue released, and placed on record his compliance with the appellate order. Instead, he appeared to argue his case whilst the constitutional rights of the detinue continued to be violated. The phrase employed by this Court in its order dated 08.06.2026 - 'brazen defiance' of the appellate order is not merely rhetorical. It is the most apt and accurate description of the conduct that this Court has witnessed throughout these proceedings.

33. In the entire judicial career of the Members of this Bench, it is rare indeed, it is unprecedented in the experience of this Court to encounter an officer of the revenue administration who, in the face of a judicial order of suspension passed by his own direct appellate superior, in the face of repeated personal representations by the detinue's wife, in the face of the institution of a habeas corpus petition in the High Court, and in the face of his own admitted knowledge of the order, continued for days on end to keep a sick and helpless individual in illegal confinement. The stubbornness, the





obstinacy, the contumacious defiance of the rule of law exhibited by respondent No. 4 in these proceedings is of a character and degree that this Court has not previously encountered and hopes never to encounter again.

34. This Court is also deeply conscious of the particular vulnerability of the detainee and his family. Shri Ghamandnath is a person living with HIV, requiring continuous medical treatment. His detention deprived him of access to the regular medical care that his condition necessitates. His wife, who bore the burden of fighting for his release, is herself battling cancer. The picture of this ailing woman a cancer patient presenting a suspension order at the gates of the Tehsil office, only to be turned away by an obdurate functionary; appearing before every authority; ultimately filing a habeas corpus petition as a last resort, only for the State machinery to continue its defiance even after notice was issued, is a picture that will, this Court hopes, endure as a reminder to every public functionary of what it means to betray the constitutional trust that the office of a public servant carries.

**V. THE PRINCIPLE OF 'OBEY FIRST, APPEAL LATER' AND ITS APPLICATION**

35. The principle that a judicial or quasi-judicial order must be obeyed and complied with, unless and until it is stayed, modified, or set aside by a competent authority, is a foundational pillar of the rule of law. The Hon'ble Supreme





Court, in ***Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd., (2005) 1 SCC 705***, reiterated that the mere filing of an appeal or an application does not, by itself, operate as a stay of the impugned order. The Supreme Court, in ***Daudayal v. State of Rajasthan*** (supra), has applied this principle with particular force in the context of release orders, observing: 'Once the detinue has been ordered to be released, the same has to be followed no matter what. The only scenario in which it would not be so done was if a superior Court has granted stay in the matter.'

36. In ***Karnataka Housing Board v. C. Muddaiah, (2007) 7 SCC 689***, the Supreme Court held: 'We are of the considered opinion that once a direction is issued by a competent court, it has to be obeyed and implemented without any reservation. If an order passed by a court of law is not complied with or is ignored, there will be an end of the rule of law.' In ***Prithawi Nath Ram v. State of Jharkhand, (2004) 7 SCC 261***, the Court articulated the same principle with admirable directness: 'Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt.'

37. The application of this principle to the facts at hand is straightforward. The Additional Divisional Commissioner, Ajmer, is the hierarchical superior of the Tehsildar. The order of the Additional Divisional Commissioner dated 15.04.2026 was a valid, subsisting, and operative judicial order within the





revenue hierarchy. Respondent No. 4, as the subordinate authority charged with the execution of the sentence, was bound to give effect to that order the moment it was brought to his notice. There was no stay of that order granted by any superior authority. There was no challenge pending before any higher court that could have provided even a colourable justification for non-compliance. The order was clear, unambiguous, and mandatory in its terms. The failure of respondent No. 4 to act upon it was a dereliction of duty of the gravest kind.

**VI. COMPENSATION: THE CONSTITUTIONAL IMPERATIVE AND ITS MEASURE**

38. Having established that the detention of Shri Ghamandnath from and after 15.04.2026 was wholly illegal and from at least 01.06.2026, provably and indisputably illegal on the Tehsildar's own admitted case this Court now turns to the question of compensation. The award of compensation for violation of fundamental rights through writ jurisdiction is not an act of charity by the Court. It is a constitutional mandate. It is the natural and necessary consequence of the supremacy of fundamental rights. It is the only effective means by which a Constitutional Court can give meaning and content to the guarantee of personal liberty where that guarantee has been violated.

Mere declaration of detention as illegal, without anything further, would in many cases reduce the constitutional





remedy to a hollow formality. A judicial pronouncement recording the infringement of liberty undoubtedly vindicates the rule of law, but it does little to alleviate the actual injury suffered by the victim of unlawful confinement. The detenué has already endured the deprivation; the lost days cannot be restored by judicial words alone. Constitutional courts, therefore, cannot stop at a bare declaration when the violation is established. Compensation serves as the tangible acknowledgment by the legal system that a grave wrong has been committed and that the State must assume responsibility for its consequences. It is often the only practical means by which some measure of solace, dignity, and restorative justice can be afforded to a citizen whose fundamental right to personal liberty has been unlawfully curtailed. To merely record that the detention was illegal and then leave the injured citizen remediless would be to recognize the violation while denying an effective remedy, a course wholly incompatible with the constitutional promise embodied in Article 21 and the jurisdiction of this Court under Article 226 of the Constitution.

39. The jurisprudence of compensatory public law remedy was inaugurated in India by the landmark judgment in ***Rudul Sah v. State of Bihar, (1983) 4 SCC 141***, in which the Hon'ble Supreme Court awarded Rs. 35,000/- as compensation for detention of fourteen years beyond the release order. In ***Sebastian M. Hongray v. Union of India, (1984) 3 SCC***





**82**, compensation of Rs. 1,00,000/- each was awarded to the wives of two persons who were taken into custody and never returned. In ***Bhim Singh v. State of J & K, (1985) 4 SCC 677***, the Hon'ble Supreme Court awarded Rs. 50,000/- to a sitting legislator who was wrongfully arrested and detained, with O. Chinappa Reddy, J., holding: 'When a person comes to us with the complaint that he has been arrested and imprisoned with mischievous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free.' In ***Nilabati Behera v. State of Orissa, (1993) 2 SCC 746***, Dr. A.S. Anand, J. (as he then was) articulated the theoretical foundation of this remedy with crystalline clarity, holding that compensation under public law is 'in the nature of exemplary damages awarded against the wrongdoer for the breach of its public law duty' and is 'independent of the rights available to the aggrieved party to claim compensation under the private law.'

40. In the most recent pronouncement on this question, the Hon'ble Supreme Court in ***Daudayal v. State of Rajasthan, 2026 INSC 599 (decided 29.05.2026)***, awarded compensation of Rs. 11,00,000/- (Rupees Eleven Lakhs) for twenty-four days of illegal detention suffered by a convict who had been ordered to be released on parole but was not released despite having fulfilled all conditions. The Court held that 'the liberty of an individual is not a trivial





matter. The State cannot continue curtailing the same in the face of a court order, on account of its slow bureaucratic processes of taking decisions whether to file appeals in a particular matter or not.' The Court further observed that 'just because a person had been convicted does not mean that his rights weigh less on the scales of justice.'

41. In **Sohan Singh @ Bablu v. State of Madhya Pradesh (Special Leave to Appeal (Crl.) 11244/2025)**, compensation of Rs. 25,00,000/- was awarded by the Supreme Court where a convict had completed his full sentence yet continued to be detained. In **S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804**, the Supreme Court awarded Rs. 50,00,000/- as compensation to a scientist whose fundamental rights were grossly violated through malicious prosecution and wrongful arrest.

Before proceeding to determine the question of compensation, this Court considers it necessary to record that respondent No. 4 was afforded full and adequate opportunity to address this issue. In the earlier proceedings and orders passed by this Court, the respondent was specifically put to notice that the question of grant of compensation on account of the alleged illegal detention was under active consideration and that he should explain as to why compensation ought not to be awarded to the detenu for the violation of his fundamental rights. The principles of natural justice thus stood fully satisfied. Despite being granted such opportunity,





respondent No. 4 has failed to furnish any satisfactory explanation capable of justifying either the continued detention of the detinue after acquiring knowledge of the suspension order or the denial of compensatory relief. The response submitted by him neither dispels the constitutional injury suffered by the detinue nor provides any legally sustainable ground for withholding compensation. This Court is therefore left with no reason to decline the grant of compensation and no justification has been shown as to why the ordinary public law consequence of a proven violation of personal liberty should not follow.

42. The question before this Court is: what is the appropriate measure of compensation in the present case? In addressing this question, this Court is guided by the following considerations. First, the duration of illegal detention: the detinue was unlawfully confined for approximately 53 days after the suspension order was passed. Even on the Tehsildar's own case, the detention was illegal for at least seven days from 01.06.2026 to 08.06.2026 a period during which there is no doubt whatsoever that the Tehsildar had actual knowledge of the suspension order yet chose to do nothing. Second, the nature of the detinue's vulnerability: Shri Ghamandnath is a person living with HIV, whose prolonged detention deprived him of necessary medical care, with potentially serious and irreversible consequences for his health. The State had a heightened duty of care towards a





person of his medical condition. Third, the impact upon the detinue's family: the petitioner, herself battling cancer, was deprived of the care and support of her husband and compelled to exhaust her limited resources in repeated visits to authorities, engagement of counsel, and ultimately in filing a habeas corpus petition. The injury to the family as a whole is immeasurable. Fourth, the gravity of the official misconduct: the conduct of respondent No. 4 was not merely negligent. It was wilful, deliberate, and contumacious. An officer who continues to confine a person in the face of a valid suspension order, repeated personal requests for release, institution of a writ petition in the High Court, and his own admitted knowledge of the order, cannot be heard to say that his misconduct was innocent or accidental. The element of wilfulness elevates the gravity of the wrong and must be reflected in the quantum of compensation.

43. The injury suffered by a person deprived of liberty is not measurable in mathematical terms. The law has long recognised this difficulty. In *Bhim Singh* (supra), the Hon'ble Court observed that compensation must be 'suitable.' The standard is not one of full restitution for the liberty that was stolen cannot be restored, but of meaningful acknowledgment of the constitutional wrong, meaningful deterrence for future misconduct, and meaningful relief to the victim. The Latin maxim 'restitutio in integrum' restoration to the original position, cannot be achieved where the harm is





the deprivation of something as precious and irreplaceable as fifty-three days of a sick man's freedom. But the principle underlying that maxim demands that the Court do all that can be done to make whole, so far as money can make whole, the person who has suffered.

44. This Court is firmly of the view that in cases of wilful and deliberate illegal detention particularly where the detenu is a person of no means, suffering from serious illness, and where the detention was in brazen defiance of a superior order the question of whether a portion of the compensation should be recovered from the erring officer personally is a question that must be answered in the affirmative. Public law compensation under Article 226 is ordinarily payable by the State, which may then have recourse against the erring official. However, this Court, in appropriate cases, has the power to and should direct that a portion of the compensation be borne personally by the offending functionary, both as a measure of accountability and as a deterrent. The purpose of public law compensation would be subverted if the entire financial burden were always absorbed by the State i.e., by the taxpayer while the officer whose wilful misconduct caused the violation walks away without personal consequence. In Rudul Sah (supra), the Supreme Court itself noted that 'the State may have recourse against those officers.' The time has come for this Court to give operational content to that observation.





45. Having regard to all the circumstances the duration of illegal detention, the medical vulnerability of the detenu, the suffering of the petitioner family, the wilfulness of respondent No. 4's conduct, and the imperative of deterrence this Court is of the view that adequate compensation must be awarded. The loss suffered by Shri Ghamandnath and his family is, in its truest sense, immeasurable and incalculable. No sum of money can restore fifty-three days of liberty stolen from a sick and helpless man by the obstinacy of an officer of the State. Yet the obligation of this Court to provide meaningful relief is clear, and a sum of Rs. 2,00,000/- (Rupees Two Lakhs) is hereby determined as the measure of compensation payable to the petitioner, to be deposited within forty-five days.

While determining the quantum of compensation, this Court has also remained conscious of the fact that the amount directed to be paid personally by respondent No. 4 must be proportionate not only to the gravity of the constitutional wrong but also to the financial realities of the officer concerned. The object of the present order is not to impose a punitive or confiscatory burden so excessive as to be impossible of compliance, but to ensure meaningful accountability for the violation committed. The compensation awarded must be substantial enough to serve as a genuine deterrent and a reminder of the sanctity of personal liberty, yet not so exorbitant as to become oppressive, unrealistic, or





incapable of being discharged by the officer from his lawful means. Bearing in mind the nature of the post held by respondent No. 4, his emoluments and social standing as a serving Tehsildar, and the requirement that the compensation remain both meaningful and enforceable, this Court is satisfied that the sum of Rs. 2,00,000/- (Rupees Two Lakhs) strikes an appropriate balance between deterrence, accountability, and fairness.

**VII. ACCOUNTABILITY, DETERRENCE, AND THE CONSTITUTIONAL MANDATE**

46. This Court is cognizant that the present case is not merely about one individual's suffering, grievous as that suffering has been. It is about a pattern of executive impunity that, if left unremarked and unremedied, will become entrenched. Every time a public functionary defies a judicial order and escapes without consequence, the authority of the court diminishes. Every time the State shields an erring officer from personal accountability, the officer learns that the power of the State is his shield and the fundamental rights of citizens are his plaything. This Court cannot, and will not, be a passive witness to such a subversion of the constitutional order.

47. The conduct of respondent No. 4 throughout these proceedings has been characterised by an extraordinary and wholly unprecedented degree of obstinacy. This Court has, in its collective judicial experience, encountered officers who





made mistakes, officers who were negligent, officers who were slow to act. But this Court has rarely, if ever, encountered an officer who, in possession of actual knowledge of a validly passed order of his own appellate superior suspending the sentence he had awarded, in the face of repeated personal representations from the detenu's wife, in the face of the institution of a writ petition in the High Court, and in the face of notice from this Court, continued to keep a sick and helpless individual in illegal confinement and then appeared before this Court to argue that he did not know. An officer of this character is not merely a liability to the revenue administration. He is a threat to civil society. He is a threat to the constitutional order. He is a threat to the very idea that government is accountable to the governed.

48. There is a further and graver dimension to the present case. The Tehsildar, by his conduct in these proceedings, has demonstrated a mindset of impunity that this Court cannot ignore. An officer who is capable of such brazen defiance of his superiors' orders is an officer who, if left unchecked in his field posting, may be capable of causing incalculable mischief with the official documents, registers, revenue records, and correspondence that fall within the domain of his office. This Court cannot permit such an officer to continue in a position where he has access to, and authority over, sensitive revenue records and proceedings.





The concern is not merely speculative. A Tehsildar is the highest executive and revenue authority within the tehsil establishment and exercises administrative, supervisory, and disciplinary control over the employees posted in the Tehsil office. The clerical staff, record keepers, assistants, and other ministerial employees through whom official files, records, and correspondence are processed function under his authority and direction. In such circumstances, it would be unrealistic to assume that respondent No. 4 would be incapable of exercising influence over the subordinate staff attached to his office. The possibility of direct or indirect influence upon employees who may possess knowledge of relevant facts, handle official records, or otherwise be connected with the subject matter of the proposed inquiry is both real and inevitable. Permitting respondent No. 4 to continue in the same establishment would therefore carry a substantial risk of compromising the fairness, independence, and credibility of the inquiry process.

49. It is also to be noted that the presumptions outlined earlier in this order namely, the communication of the appellate order to the Tehsildar through official channels, the personal presentation of the suspension order by the petitioner, and the imputation of constructive knowledge from the notice issued by the coordinate bench are disputed by respondent No. 4. These are questions of fact that require a proper disciplinary inquiry. This Court directs that such an inquiry be





conducted by the Additional Chief Secretary, Revenue, Government of Rajasthan, who shall depute a responsible senior officer to carry out the inquiry and shall constitute an appropriate mechanism for fact-finding in accordance with the applicable service rules." If, upon inquiry, any or all of these facts are found to be established, respondent No. 4 shall be held accountable and punished in accordance with law. The finding of guilt, if any, shall be treated as an aggravating circumstance warranting the most stringent disciplinary penalty available.

### **VIII. DIRECTIONS**

50. In view of the foregoing observations and findings, this Court issues the following directions:

(i) It is hereby declared that the continued detention of Shri Ghamandnath after 01.06.2026 was illegal, unconstitutional, and violative of his fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India. Insofar as the period commencing from 01.06.2026 until his eventual release is concerned, the illegality of the detention stands established on the admitted case of respondent No. 4 himself, who acknowledges having acquired knowledge of the order dated 15.04.2026 suspending the sentence. As regards the period preceding 01.06.2026 and subsequent to the passing of the suspension order dated 15.04.2026, the precise commencement and extent of the illegal detention shall be subject to and dependent upon the findings recorded in the





departmental inquiry directed by this Court. In the event the inquiry establishes that respondent No. 4 or his office had actual or constructive knowledge of the suspension order at any earlier point of time, the period of illegal detention shall stand correspondingly extended from such date, and respondent No. 4 shall be liable for all legal and disciplinary consequences flowing therefrom.

**(ii)** This Court directs the concerned Tehsildar, who is responsible for the unlawful detention of the detenu Shri Ghamandnath, to pay compensation of ₹2,00,000/- (Rupees Two Lakhs Only) personally from his own income or property, to the detenu Shri Ghamandnath, who has since been released from detention, within a period of forty-five (45) days from the date of receipt of a copy of this order. The said amount shall be deposited directly into the bank account of Shri Ghamandnath, details of which shall be furnished by the learned counsel for the petitioner to the concerned Tehsildar within seven (7) days from the date of this order.

The compensation shall be borne and paid personally by the Tehsildar concerned, and under no circumstances shall the State of Rajasthan or any Government Department bear, reimburse, or facilitate the payment of this amount on his behalf. The Revenue Department is further specifically directed not to provide any financial assistance or deposit any amount on behalf of the erring Tehsildar in satisfaction of this order, as





the liability arising from his unlawful actions is strictly and exclusively personal in nature.

Proof of compliance, including documentary evidence/receipt of the amount deposited into the bank account of the detenu Shri Ghamandnath, shall be duly submitted before this Court through appropriate application.

**(iii)** The Additional Chief Secretary, Revenue, Government of Rajasthan, is hereby directed to forthwith initiate a detailed and time-bound departmental inquiry, by deputing a responsible senior officer, against respondent No. 4 — Shri Tejpal Pareek, Tehsildar for his conduct in the present matter, including but not limited to:

(a) whether and when official intimation of the order of the Additional Divisional Commissioner dated 15.04.2026 was received by the Tehsil office;

(b) whether the petitioner personally and through her counsel had presented a certified copy of the suspension order to respondent No. 4 or his office; (c) whether respondent No. 4 had constructive or actual knowledge of the suspension order prior to 01.06.2026; and (d) whether his failure to release the detenu upon acquiring admitted knowledge on 01.06.2026 constitutes wilful disobedience of a superior order, misconduct, and violation of service rules.





The inquiry shall be completed within ninety (90) days from the date of this order and a compliance report shall be placed before this Court.

**(iv)** Pending conclusion of the aforesaid inquiry and as an interim measure, respondent No. 4 shall forthwith be relieved of his field posting as Tehsildar, Deh, District Nagaur. He shall not be permitted to enter the premises of the Tehsil office, Deh, until further orders. He shall have no access to, and shall be strictly prohibited from touching, handling, or interfering in any manner with, any document, register, record, file, correspondence, or proceeding pertaining to or maintained in the Tehsil office, Deh, or any office within District Nagaur.

This direction is considered necessary having regard to the nature of the office held by respondent No.4. Being the Tehsildar, he exercises administrative and supervisory control over the Tehsil establishment and its records. His continued presence in, or access to, the office may reasonably give rise to apprehensions of influence upon official records, correspondence, or personnel connected with the proposed inquiry. To ensure that the inquiry remains fair, independent and free from any perception of interference, respondent No.4 shall remain completely disengaged from the functioning of the Tehsil office, Deh, till conclusion of the inquiry.





(v) The Additional Chief Secretary, Revenue, shall take respondent No. 4 on attachment at the Revenue Headquarter in terms suitable to the ACS Revenue in the interest of administration and in accordance with applicable service rules, pending the conclusion of the inquiry. It is directed that respondent No. 4 shall not, during the period of inquiry, be assigned any field or quasi-judicial role involving the exercise of authority over any individual.

51. In view of the foregoing discussion, findings, and directions, this Court is satisfied that the continued detention of the detinue after suspension of his sentence was wholly unjustified and constituted a grave infringement of his fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India. The matter has necessitated judicial intervention not merely to redress an individual wrong but also to preserve public confidence in the rule of law and the accountability of public authorities. Accordingly, subject to the directions contained hereinabove, including those relating to departmental inquiry and consequential action against respondent No. 4, the present petition stands disposed of. All pending applications, if any, shall also stand disposed of

**(SUNIL BENIWAL ,VJ)**

**(FARJAND ALI),VJ**

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