



2026:AHC:124916

HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 946 of 2025

Megha RaikwarPetitioners(s)

Versus

State of U.P. And 4Respondents(s)
Others

Counsel for Petitioners(s) : Jay Prakash Singh Yadav,
Raghvendra Yadav
Counsel for Respondent(s) : G.A.

In Chamber AFR
Reserved on: 23.02.2026
Delivered on: 03.06.2026

HON'BLE VINOD DIWAKAR, J.

Kautilya¹, in his *Arthashastra*, prescribes that those possessed of ministerial qualifications shall, in accordance with their individual capacity, be appointed as Superintendents of Government Departments. While engaged in the discharge of their duties, they shall be examined daily; for men are by nature fickle-minded and, like horses at work, exhibit constant changes in their temperament. Accordingly, the agencies and instruments of which they avail themselves, the place and time of the work in which they are engaged, as well as the precise form of the work, the ex-

¹ Reference: Second Book, Chapter IX; Examination of the conduct of the Government Servants of Kautilya's *Arthashastra* translated by R. Shamasastri. Kautilya's *Arthashastra* translated by R. Shamasastri (1868-1944), is a seminal ancient Indian treatise on State craft, economic policy, and military strategy, originally composed by Kautilya. Shamasastri first published the text in 1909 and English translation published in 1915.

penditure incurred, and the results achieved, shall all be daily ascertained.

A fine of twice the amount of their daily remuneration and of the expenditure incurred by them shall be levied in respect of any inadvertence or neglect on their part in discharge of their duties.

Whosoever among the Superintendents realizes revenue equal to, or in excess of, the amount fixed shall be honoured with promotion and rewards. The present matter is a reminder that, this ancient wisdom remains as relevant to the governance of public administration, today as it was when first articulated, almost 2300- 2400 years ago.

1. Heard Shri Raghvendra Yadav, learned counsel for the petitioner, Shri M.C. Chaturvedi, learned Additional Advocate General assisted by Shri Vibhav Anand Singh, learned A.G.A. for the State, and perused the material available on record.

2. The present writ petition, in the nature of a writ of habeas corpus, has been filed by the petitioner- the mother of the corpus- seeking a direction to respondent nos.1 to 3 to recover the corpus, a minor girl aged about 15 years, from the alleged illegal custody of respondent no.5 and to restore her custody to the petitioner.

3. Learned counsel for the petitioner submits that the corpus was illegally enticed away by respondent no.5 on 10.06.2025. Thereafter, the petitioner lodged a complaint before the Station House Officer, P.S. Sipri Bazar, Jhansi (respondent no.3), pursuant to which an FIR dated 11.06.2025 was registered as Case Crime No.212 of 2025, under Sections 87 and 137(2) of the Bharatiya Nyaya Sanhita, 2023, at P.S. Sipri Bazar, District Jhansi.

4. It is further submitted that, subsequently, on 16.06.2025, another application was submitted before the Senior Superintendent of Police,

Jhansi. However, despite the aforesaid efforts, the corpus has not yet been recovered. Learned counsel further states that respondent no. 5, who is the named accused in the aforesaid case, was arrested during the course of investigation and was thereafter released on bail. It is also submitted that a charge-sheet came to be filed on 13.08.2025, i.e., within approximately sixty days from the date of registration of the FIR, without arraying real accused.

5. In response to the contentions raised in the petition, learned A.G.A. filed the instructions, and upon perusal of the instructions, it appears that the charge-sheet has been submitted primarily on the basis of the statements of the accused and certain other witnesses, who have stated that the victim had accompanied the accused and was with him at the railway station. According to their version, the victim subsequently boarded a train while the accused was asleep at the railway station, without informing him of her destination. The manner in which the investigation has been conducted gives rise to serious concerns. *Prima-facie*, it appears that the Investigating Officer has failed to conduct a fair, impartial, and effective investigation. The investigation does not appear to have been carried out with the requisite diligence and objectivity expected in law, and the conduct of the Investigating Officer appears to have compromised the propriety and integrity of the investigative process.

6. In the aforesaid circumstances, the Senior Superintendent of Police, Jhansi, was directed to file a personal affidavit indicating: (i) the particulars of the officer, who supervised the investigation and approved/forwarded the charge-sheet; (ii) whether the supervising officer was satisfied with the findings and conclusions arrived at by the Investigating Officer; and (iii) the reasons for the failure to take effective steps for the recovery of the corpus, despite her being a minor, notwithstanding the allegations leveled in the FIR.

7. In compliance with the order dated 02.12.2025, learned A.G.A. had handed over, on behalf of the State, the personal affidavit of the Senior Superintendent of Police, Jhansi, which was taken on record. Upon perusal of the said affidavit, it was evident that the same did not address the specific requirements stipulated in paragraphs 5 and 6 of the order dated 02.12.2025. In particular, paragraph 6 of the aforesaid order expressly required the Senior Superintendent of Police, Jhansi, to state in the affidavit as to whether the directions issued by this Court in *Subhash Chandra & Others v. State of U.P. & Another*², had been duly complied with by the Investigating Officer during the course of investigation and, if so, to furnish the particulars of such compliance. The affidavit filed in compliance of the aforesaid order was, however, conspicuously silent on this material aspect and failed to disclose, whether the mandate laid down by this Court in the aforesaid decision was adhered to while conducting the investigation.

8. In view of the aforesaid deficiencies and the failure to comply with the specific directions issued by this Court, the Senior Superintendent of Police, Jhansi, was directed to remain present before this Court through video conferencing on the next date fixed at 12:30 p.m. The said officer was further directed to explain the reasons for such non-compliance and to ensure that the directions previously issued by this Court have been complied with in their true letter and spirit. It was also observed that the Court expected the Senior Superintendent of Police, Jhansi, to acquaint himself thoroughly, prior to his appearance, with the directions laid down by this Court in *Subhash Chandra (supra)*, so as to ensure meaningful compliance thereof and to enable him to render proper and effective assistance to the Court on the next date of hearing.

9. In compliance with the order dated 10.12.2025, learned A.G.A. had placed written instructions on record. A perusal thereof shows that at

² (2025) SCC OnLine All 3029

Serial No.95 it has been specifically stated that the charge-sheet in the present case was submitted after due compliance with the directions issued by this Court in *Subhash Chandra (supra)*. In view of the aforesaid statement, the Station House Officer concerned was directed to place on record a copy of the charge-sheet along with the legal opinion obtained from the Law Department and all other approvals, recommendations, and documents relied upon to demonstrate compliance with the directions contained in the aforesaid judgment.

10. Upon perusal of the charge-sheet and the documents annexed thereto, it *prima-facie* appeared that the investigation has not been conducted in an effective, fair, impartial and comprehensive manner. The material brought on record further indicated that the charge-sheet had not been submitted in conformity with the directions issued by this Court in *Subhash Chandra (supra)*. In view of the aforesaid, this Court directed the police to place on record ten charge-sheets, one each from ten different districts, so as to enable the Court to examine whether charge-sheets are being submitted in accordance with the directions and mandate laid down by this Court in *Subhash Chandra (supra)*.

11. For the sake of convenience and ready reference, the directions issued by this Court in *Subhash Chandra (supra)* are reproduced hereinbelow:

“33. This is an appropriate stage where this Court suo-motu exercises the powers vested in it to uphold the majesty of the judicial process and to strike a balance between the unfettered power of the police to investigate and the need to maintain the purity of the legal system. Accordingly, the Court hereby directs the Director General of Police, Uttar Pradesh, to ensure;

33.1 Develop a need-based, customized training program tailored specifically for Constables, Head Constables, Sub-Inspectors and Inspectors- the key officers involved in criminal investigation. The course material contained 1282 pages and compiled in five volumes shall be divided into-small, self contained booklets-each covering specific subject area focusing on specific nature of offence for easier understanding and flexible learning. The objective of the program is to enhancing the professional

capabilities of the investigators at the police station level to ensure accessibility and practical relevance.

33.2 Column-16 of the police report must contain clear and complete entries, **(i)** brief contents of the FIR, **(ii)** name of the suspects in the FIR, **(iii)** name of the accused mentioned in the charge-sheet, **(iv)** name of the suspect against whom the investigation has been pending and the reason thereof, **(v)** specify the role of each accused in the commission of the crime surfaced during investigation, **(vi)** details of seizure made- date, time, and particulars of recoveries, **(vii)** brief statement of prosecution witnesses- public, police, and formal- who said what?, **(viii)** details of scientific and forensic evidence, **(ix)** details of C.D.R. or C.C.T.V., **(x)** names of the accused arrested during investigation, **(xi)** name of the accused who have been granted anticipatory bail during investigation, **(xii)** name(s) of the accused whose arrest has been stayed by the High Court/Supreme Court, **(xiii)** name(s) of the accused qua whom charge-sheet has been filed without arrest, **(xiv)** name of the person(s) against whom Section 94 B.N.S.S., 2023 has been issued to produce which document or other thing, **(xv)** name of the person(s) against whom proceedings under Section 84 and 85 B.N.S.S., 2023 have been commenced, **(xvi)** details- number of notices issued by the I.O. to the accused(s) to join investigation, **(xvii)** number of date(s) the accused premises have been raided during investigation, **(xviii)** details of order(s) obtained by the accused from the High Court/Supreme Court during the investigation, **(xix)** any other incriminating evidence collected by the Investigating Officer forming part of the **column-4** of the case diary, and **(xx)** any additional information by the investigating officer.

33.3 The details mentioned herein above are for illustrative purposes only. It is the sole prerogative of the Investigating Officer to exercise discretion and decide whether any other details need to be included in the police report, based on the requirements of each individual case.

33.4 The Director General of Police, through the Commissioner of Police and Senior Superintendent of Police, shall initiate a training drive for Investigating Officers to equip them with the necessary skills to prepare charge-sheets in accordance with the law.

33.5 The Director General of Police, Uttar Pradesh shall ensure the strict implementation of the circular bearing no. DG/Circular No.-06/2018 dated 19.02.2018, issued by the Director General of Police, whereby it has been made mandatory to every Investigating Officer that upon completion of investigation, prior to submission of charge-sheet/final report, the Investigating Officer must forward the draft charge sheet along with case diary to the Prosecution Officer through the Circle Officer. The Prosecution Officer shall review the case diary and evaluate the evidence collected during the investigation. If any shortcomings or inconsistencies are found, they shall be indicated, and further investigation shall be directed to address those issues. The case diary shall be returned to the Investigating Officer via the same channel after the Prosecution

*Officer's review, and only thereafter, the charge sheet or final report shall be submitted to the Court. The aforesaid circular has been issued in accordance with the judgment of Supreme Court titled as "**Perumal v. Janaki [(2014) 5 SCC 377]**". The true typed copy of the circular has been annexed herewith as **Enclosure-I**.*

***33.6** If the charge-sheet is filed for offenses where life imprisonment is the prescribed punishment, the Investigating Officer must forward the draft charge-sheet along with the case diary to the Prosecution Officer through the Commissioner of Police or Senior Superintendent of Police, as applicable. The other directions contained in **Enclosure-I** shall remain same. Pursuant to this order and for the aforesaid purpose, the aforementioned police officers are hereby directed not to delegate this responsibility to any subordinate officers.*

***33.7** The Director General (Prosecution) shall issue general guidelines to all the Prosecution Officers to review the charge sheet along with the case diary in a time-bound manner. The number of days to complete the said exercise shall be decided by the Department of Prosecution.*

***33.8** The charge sheet shall be filed along with a duly paginated **Index** containing; (a) serial number, (b) date-wise brief description of the investigation in seriatim- C.D. wise details, (c) details of document collected during investigation, (d) brief description of steps taken by Investigating Officer, (e) details of Section 94 B.N.S.S., 2023 notice, issued to "any person" to produce document and other thing, and (f) or any other details as deem fit by the Investigating Officer.*

***33.9** Every Investigating Officer, upon completion of the investigation, prior to submission of charge-sheet/final report, must make an endorsement in the case diary a day prior or on the date of submission of the charge sheet to the Court that the **steps mentioned in the check list and the mandate of circular bearing no. DG/Circular No.-06/2018 dated 19.02.2018, issued by the Director General of Police, and directions issued herein in 33.5 & 33.8** has been complied with in letter and spirit. The copy of the Case Diary, containing the aforesaid details, shall be forwarded to the Court following the report under Section 193 BNSS, 2023.*

***33.10** If preceding **Direction Nos. 33.5 & 33.8**, have not been complied with by the Investigating Officer, the learned Special Judge, Chief Judicial Magistrate, or the learned Magistrate, as the case may be, shall immediately communicate the non-compliance to the Commissioner of Police or the Senior Superintendent of Police/Superintendent of Police and direct that appropriate departmental action be initiated against the Investigating Officer. It is equally the duty of the Court to ensure that the orders passed by the Constitutional Courts are strictly implemented by the authorities, upholding the rule of law in both letter and spirit.*

***33.11** If preceding Direction No. 33.6 has not been complied with by the Investigating Officer, and Commissioner of Police or Senior*

Superintendent of Police or Superintendent of Police, as applicable, the learned Special Judge, Chief Judicial Magistrate, or the learned Magistrate, as the case may be, shall immediately communicate the non-compliance to the ACS (Home) and a copy of the same shall be sent to Director General of Police for necessary action.

33.12 The concerned Station House Officer (S.H.O.) shall be held primarily accountable for dereliction of duty if, upon completion of the investigation and prior to submission of the charge sheet or final report before the Court, the police report is not forwarded to the Prosecution Officer through the Circle Officer or the Police Commissioner/Senior Superintendent of Police (S.S.P.), as applicable. In instances where the Police Commissioner or the S.S.P. declines to forward the charge sheet for review to the Prosecution Officer in cases involving a prescribed punishment of life imprisonment, the S.H.O. shall make a corresponding endorsement in the case diary and submit a report detailing the same to the senior officers.

33.13 The Commissioner of Police/S.S.P./S.P. shall file monthly report about the compliance of DG/Circular-06/2018 dated 19.02.2018, to the Director General of Police, Uttar Pradesh with a copy to Director General (Prosecution), without fail.

*33.14 A fresh Office Memorandum/Circular should be accordingly issued by the Home Department, instructing the Director General of Police and the Directorate (Prosecution) to issue a fresh Circular/Office Memorandum to their respective officers based on the foregoing **directions**, at the earliest.”*

12. Upon examination of the ten charge-sheets produced from the respective districts pursuant to the orders of this Court, it has been observed that the directions laid down in *Subhash Chandra (supra)* have not been uniformly adhered to. The material placed on record indicates that, in a number of cases, the investigating agencies have failed to ensure compliance with the requirements mandated therein, thereby reflecting a lack of effective implementation of the aforesaid directions at the field level.

13. Before adverting to the merits of the present case, it would be apposite to briefly examine the background and context in which the directions in *Subhash Chandra (supra)* came to be issued. The directions contained in *Subhash Chandra (supra)* are founded upon the principles laid down by the Supreme Court in *Sanuj Bansal v. State of U.P. and An-*

*other*³, *Dablu Kujur v. State of Jharkhand*⁴, *R.K. Dalmia etc. v. Delhi Administration*⁵, and *Sharif Ahmed and Another v. State of Uttar Pradesh and Another*⁶, wherein emphasis was laid upon fair, impartial, scientific, and legally sustainable investigation as an indispensable component of the criminal justice system, and entries to be made in Column-16 of the charge-sheet proforma.

13.1 Pursuant to the directions issued by this Court in *Subhash Chandra (supra)*, the Director General of Police (Training), Uttar Pradesh, placed before the Court a comprehensive set of five compilations comprising more than 1,282 pages. Each compilation contained extensive material relating to the training, supervision, and standardisation of criminal investigation under the new criminal laws. The documents, *inter-alia*, included training course materials for Sub-Inspectors, Deputy Superintendents of Police (Law and Investigation), Constables (Law and Investigation), and other investigating personnel; the objectives and curriculum relating to training under the newly enacted criminal laws; promotional course syllabi for Constables, Head Constables, Sub-Inspectors, and Inspectors; circulars and directions issued from time to time by the Director General of Police, Uttar Pradesh, for improving the quality of investigation; Crime SOP Handbooks; Standard Operating Procedures relating to crime-scene investigation; digital library resources; details of officers trained outside the State by specialised agencies.

13.2 A copy of Memoranda of Understanding executed with the National Institute of Electronics and Information Technology (NIELIT) and the National Raksha University; communications concerning forensic investigation issued by the Uttar Pradesh State Institute of Forensic Science; checklists for investigation of heinous offences circulated by the Additional Director General (Crime); action plans for investigation

³ SLP (Crl.) No. 10536 of 2023

⁴ (2024) 6 SCC 758

⁵ (1962) SCC OnLine SC 83

⁶ (2024) SCC OnLine SC 726

circulated to various zones, ranges, and districts; the updated Investigation Handbook, 2021; SOPs issued by the Director General of Police, Uttar Pradesh, as well as the Directorate of Prosecution; compilations of crime-specific checklists prepared by different units; and numerous circulars providing for departmental action against errant Investigating Officers whose investigations were found to be deficient or unsatisfactory. The aforesaid material demonstrates the extensive institutional framework, training infrastructure, procedural safeguards, and supervisory mechanisms that have been developed by the State authorities to ensure that criminal investigations are conducted in a professional, scientific, and legally compliant manner.

14. Upon a detailed examination of the five volumes of material placed before it, the Coordinate Bench of this Court observed that the numerous circulars, guidelines, handbooks, and standard operating procedures issued from time to time may not be readily comprehensible to police personnel at the field level, particularly those serving in the ranks of Constable, Head Constable, Sub-Inspector, and Inspector. The Court noted that the effective implementation of such directions would depend not merely upon their issuance, but also upon their proper dissemination and understanding through continuous and practical training imparted in simple and accessible language. Accordingly, the Director General of Police (Training), Uttar Pradesh, was directed to prepare '*chapter-wise*' and '*offence-wise checklists*' in a simplified format, categorising various offences and the corresponding investigative requirements in a manner capable of being easily understood and implemented by police personnel at all levels. The object behind the said direction was to translate the existing legal and procedural framework into a practical investigative tool, so as to ensure uniformity, efficiency, and legal compliance in the conduct of criminal investigations throughout the State.

15. Pursuant to the aforesaid directions, the Director General of Police constituted an Expert Committee headed by the Director General of Police (Prosecution) to examine and deliberate upon the suggestions and recommendations received from various stakeholders. Inputs were also invited from different wings and specialised branches of the police department so as to ensure a comprehensive and practical framework for investigations.

15.1 The Directorate of Prosecution thereafter undertook an extensive review of the checklists and recommendations submitted by various departmental units, District Joint Directors (Prosecution), and Prosecution Officers across the State. Upon a detailed assessment of the material received, the Committee classified and categorised offences and formulated a uniform and standardised '*checklist*' with a view to ensuring quality, consistency, and legal compliance in criminal investigations. While preparing the said checklist, particular emphasis was laid upon harmonising investigative practices with the provisions introduced under the new criminal laws of 2023. Special attention was accorded to the collection, preservation, and evaluation of forensic and digital evidence in relation to each category of offences, with the objective of strengthening the evidentiary foundation of investigations and ensuring that the investigative process remains in conformity with contemporary legal and technological requirements. It was in the backdrop of these materials, and the law laid down by the Supreme Court, that this court in *Subhash Chandra (supra)* formulated and issued the directions intended to strengthen the quality of investigation and ensure accountability within the investigating machinery.

16. After hearing learned counsel for the parties and considering the affidavits filed by the Station House Officer concerned as well as the Senior Superintendent of Police, Jhansi, this Court, by order dated 11.02.2026, reserved the petition for judgment and directed that it be

listed on 19.02.2026 for pronouncement of judgment. While doing so, liberty was granted to the Principal Secretary (Home), Government of Uttar Pradesh, to place on record, if so advised, an affidavit explaining the reasons for persistent non-compliance of the directions issued by this Court. Such affidavit was directed to be filed before the next date of listing, i.e., 19.02.2026.

16.1 This Court further observed that the present matter does not appear to be an isolated instance of non-compliance. *Prima-facie*, the material placed on record indicated that the directions issued in *Subhash Chandra (supra)* have not been effectively implemented despite the lapse of nearly a year from the date of the judgment. The Court also noted that, in the charge-sheets examined by it, including those submitted subsequent to the decision in *Subhash Chandra (supra)*, the mandate and requirements laid down therein had not been duly complied with, thereby disclosing a pattern of systemic non-adherence to the directions issued by the High Court, and no effective steps have been taken by Home Department to ensure that the ‘*checklist*’ prepared by it be uniformly implemented.

17. On 19.02.2026, learned Additional Advocate General appeared on behalf of the State and placed on record the personal affidavit of the Senior Superintendent of Police, Jhansi. Learned Additional Advocate General further sought a short accommodation to obtain and place before the Court the necessary instructions from the Additional Chief Secretary (Home), Government of Uttar Pradesh. Considering the request so made, time was granted, and the matter was again directed to be listed on 23.02.2026 for further consideration.

18. On 23.02.2026, learned Additional Advocate General again appeared and placed on record an affidavit dated 20.02.2026 sworn by the Secretary (Home), Government of Uttar Pradesh. Learned Additional

Advocate General submitted that the Home Department has taken a decision to challenge the judgment rendered in *Subhash Chandra (supra)* before the Supreme Court by filing a Special Leave Petition. On the strength of the aforesaid decision, it was urged that this Court may refrain from passing any further orders concerning the implementation or enforcement of the directions issued in *Subhash Chandra (supra)* until the said judgment attains finality from the Supreme Court.

19. The relevant contents of the affidavit dated 20.02.2026, filed by the Secretary (Home), Government of Uttar Pradesh, Lucknow, are recapitulated hereinbelow:

19.1 The deponent, Secretary (Home), Government of Uttar Pradesh, Lucknow is stated to be fully acquainted with the facts of the case. The affidavit is filed in compliance with the order dated 11.02.2026 passed by this Court. The deponent professes the highest regard for the orders of this Court and tenders an unconditional and unqualified apology for any act or omission found to be in violation thereof. Upon receipt of the Court's order, the deponent directed the Senior Superintendent of Police, District Jhansi, to furnish a report, which was duly submitted on 17.02.2026.

19.2 The complainant, Smt. Prabha, wife of Ram Kumar, P.S. Sipri Bazar, District Jhansi, reported that her daughter eloped on 10.06.2025 at about 05:00 a.m. with accused- Kallu, son of Deshraj. An FIR being Case Crime No.212 of 2025 under Sections 137(2)/87 BNS was lodged on 11.06.2025 at P.S.- Sipri Bazar, District Jhansi. Investigation was initially entrusted to Sub-Inspector Vikas Kumar, who recorded the chik report, rapat, statements of the complainant and scribe, and inspected the spot.

19.3 The accused, upon examination on 18.06.2025, admitted taking the victim to Delhi and thereafter to Bina on 12.06.2025, whereafter the

victim allegedly fled. CCTV footage at Bina Junction corroborated the presence of both the accused and the victim together. Consequently, Section 87 BNS was deleted, and the investigation continued under Section 137(2) BNS. The accused was arrested on 18.06.2025, produced before the Juvenile Justice Board, and sent to Bal Sudhar Grih, Lalitpur. A charge-sheet was filed on 13.08.2025.

19.4 Extensive searches were conducted on multiple dates- 20.06.2025, 02.07.2025, 10.07.2025, 15.07.2025, 24.07.2025, 17.10.2025, 01.11.2025, 14.12.2025, 23.12.2025, 05.02.2026, and 08.02.2026- at numerous locations including Brahm Nagar Colony, Sidheshwar Nagar, ITI, Sudama Puri Colony, Pal Colony, Gwalior Road, Bhojla, Bajrang Colony, Badagaon, Chirgaon, Jhansi Railway Station, Bus Stand, PS Kotwali Dehat, and GRP Shivpuri. The Marg Register and Khoya-Paya Register kept at P.S.- Shivpuri were examined, and red-light areas of Shivpuri were also searched. Talash-gashti was circulated through Akashvani, Doordarshan, Press, and social media groups. Pamphlets were pasted in public places. All efforts yielded no clue, and went in vain.

19.5 CDRs of the accused's mobile and the complainant's mobile were obtained and examined, but yielded no useful results. The Instagram ID of the victim was identified, and a notice under Section 94 BNS was issued to Meta Platforms, Menlo Park, California, USA. It was subsequently informed that the said ID was created using mobile number xxxxxxxxxx on 02.12.2025. CDR and CAF details of the said number were sought from Cyber Cell, Jhansi.

19.6 Records of the One Stop Centre, District Shivpuri (M.P.) were examined. An unidentified body of a girl aged approximately 15-18 years, burnt to approximately 90%, recovered vide Marg No.41/2025 dated 22.09.2025 at P.S.- Bhonti, Shivpuri (Case Crime No.311/2025, under

Sections 103(1)/238 BNS), is being investigated in coordination with local police to rule out any connection with the missing victim.

19.7 On 16.02.2026, the SSP, Jhansi, constituted a special police team under Inspector Kuldeep Tiwari, SHO, AHTU Jhansi, and Inspector Jai Prakash Chaubey, SHO, Sipri Bazar, along with seven other personnel, to intensify recovery efforts.

19.8 The DGP, Uttar Pradesh, vide Letter No.19/2024 dated 15.04.2024, had already issued directions for the recovery of missing persons and children below 18 years to all police units.

19.9 That with regard to the order dated 11.02.2026 passed by this Court, concerning compliance of paragraphs 33.5 to 33.14 of the order dated 12.05.2025 passed in *Subhash Chandra (supra)*, it was duly sworn that the Supreme Court in *State of Gujarat v. Kishanbhai*⁷, emphasised application of prosecutorial mind to investigation and post-investigation scrutiny, but no mandatory direction was issued requiring the Investigating Officers to have the charge-sheet reviewed by the Prosecution Officer prior to its submission. Therefore, the directions contained in paragraphs 33.5 to 33.14 of the order dated 12.05.2025, to the extent they mandate such pre-submission review, raise substantial questions of law, which require consideration by Supreme Court in the light of the judgment of the Supreme Court in *R. Sarala v. T.S. Velu*⁸. In view of the aforesaid legal position, the said directions could not be implemented in the manner contemplated by this High Court. Accordingly, on the proposal by Police Headquarters, the State Government has decided to challenge *Subhash Chandra (supra)* before the Supreme Court.

19.10 That with regard to the order dated 11.02.2026 passed by High Court, it is averred that the State Government has already complied with the directions issued by the Supreme Court in the governing field and

7 (2014) 5 SCC 108

8 (2000) 4 SCC 459

continues to act in accordance with the said binding directions. The State Government reiterates that G.O. No.1909 dated 05.08.2015 and DGP Circular No.06/2018 dated 19.02.2018, issued in compliance with the directions of the Supreme Court in *State of Gujarat v. Kishanbhai (supra)* shall remain in force. However, in view of the legal position arising from the judgments of the Supreme Court in *R. Sarala (supra)* and the substantial questions of law involved in the present matter, certain directions contained in *Subhash Chandra (supra)* could not be implemented in the manner contemplated. Accordingly, the State Government is proceeding for instituting a Special Leave Petition before the Supreme Court.

20. At the outset, it may be noted that liberty was granted to the Additional Chief Secretary (Home) to file an affidavit explaining the reasons for persistent non-compliance of the directions issued by this Court. However, without seeking any leave or clarification from this Court, the Additional Chief Secretary (Home) chose to have an affidavit filed through the Secretary (Home), for reasons best known to him.

20.1 A perusal of the affidavit filed by the Secretary (Home) reveals that the State Government had already issued Government Order No. 1909/PU-CHAH-9-2015-31(36)/2014 dated 05.08.2015. It further transpires that the Director General of Police, Uttar Pradesh, had issued Circular No.06/2018 dated 19.02.2018 providing for scrutiny of draft charge-sheets by Prosecuting Officers through the supervisory channel, in compliance with the directions of the Supreme Court in *State of Gujarat v. Kishanbhai (supra)*.

20.2 The affidavit further discloses that the aforesaid Government Order and Circular specifically recognised and incorporated the principle laid down by the Supreme Court and this Court that, upon completion of investigation in a criminal case, the prosecuting agency must independ-

ently apply its mind to the material collected during investigation and ensure that all deficiencies and shortcomings are duly rectified, including, where necessary, by recommending or directing further investigation. Thus, the mechanism for prosecutorial scrutiny of investigations and charge-sheets was already in existence much prior to the judgment in *Subhash Chandra (supra)*.

20.3 It is noteworthy that no challenge was laid to the *Subhash Chandra (supra)* for almost a year after its pronouncement on 12.05.2025. It was only when this Court, by order dated 11.02.2026, sought an explanation from the Additional Chief Secretary (Home) regarding the persistent non-compliance of the directions issued in *Subhash Chandra (supra)*, he chose to challenge the said judgment before the Supreme Court. Thereafter, through the affidavit dated 20.02.2026, this Court was informed that the Home Department has decided to file a Special Leave Petition and, on that basis, a request was made that this Court may refrain from passing further orders concerning compliance with the directions so issued until the matter was considered and decided by the Supreme Court.

20.4 This Court deferred the matter and awaited information regarding the status of the proposed Special Leave Petition. However, till dictation and signing of the present order, no order or judgment passed by the Supreme Court on the proposed SLP was produced by the learned State counsel till lapse of more than three months.

20.5 The chronology of events is, therefore, of considerable relevance. The judgment in *Subhash Chandra (supra)* was delivered on 12.05.2025. Questions regarding its non-compliance were raised by this Court on 11.02.2026. The State disclosed its intention to file a Special Leave Petition only, through the affidavit dated 20.02.2026, after the issue of non-compliance raised by this Court. These facts are matters of record and

necessarily fall for consideration while evaluating the conduct of ACS (Home) regarding the continued non-implementation of the directions issued by this Court.

21. The right of the State to prefer a Special Leave Petition (SLP) under Article 136 of the Constitution of India is well-established and beyond dispute. The State, as a litigant, occupies no inferior position before the Supreme Court; it may invoke extraordinary jurisdiction just as any aggrieved party would. The constitutionality of a right and the propriety of its invocation are two distinct inquiries, still it was always open for the State to take a conscious decision on it.

22. When a department of the Government feels aggrieved by a judicial decision that adversely affects public interest, statutory duties, or the rights of citizens dependent on governmental action, the filing of an SLP is not merely appropriate- it is sometimes a constitutional obligation. In such cases, the *locus standi* of the State is beyond challenge.

23. The ACS (Home), on the other hand, while being a senior officer in the administrative hierarchy, occupies a supervisory and coordinating role. His approval or concurrence in filing litigation is part of the internal administrative process. However, when this approval is motivated not by a genuine assessment of institutional grievance, but by *personal satisfaction*- a desire to vindicate a personal position, settle a personal score, or see an adversarial proceeding through its conclusion regardless of merit- the character of the litigation fundamentally changes.

24. The two domains- departmental grievance and personal satisfaction- are not merely different in degree; they are different in kind. One is institutional; the other is individual. One is grounded in public duty; the other in private motive.

25. Upon a consideration of the sequence of events and the material placed on record, this Court finds it difficult to overlook the conduct of

Shri Sanjay Prasad, IAS (DR 1995), Additional Chief Secretary (Home), Government of Uttar Pradesh, in the present matter. The record reflects that, despite informing this Court in February 2026 that a decision had been taken to challenge the judgment in *Subhash Chandra (supra)* before the Supreme Court, no order was produced before this Court till date. This Court is not aware whether the SLP was ever listed before the Supreme Court or not, till the dictation of the order.

25.1 In these circumstances, the plea that this Court should defer consideration of the issue of non-compliance on account of the proposed challenge to *Subhash Chandra (supra)* does not inspire confidence. The conduct of incumbent ACS (Home) gives rise to a reasonable apprehension that the proposed Special Leave Petition was relied upon as a justification for postponing scrutiny of the continued non-compliance of the directions issued by this Court, rather than as a bona fide and diligent effort to obtain an authoritative determination from the Supreme Court at the earliest opportunity.

25.2 The facts on record, therefore, *prima-facie* indicates a lack of diligence on the part of incumbent ACS (Home) in pursuing the very remedy, which he himself projected before this Court as the basis for seeking restraint in the enforcement of the directions contained in *Subhash Chandra (supra)*. Such conduct has the effect of impeding effective consideration of the issue of compliance and cannot be viewed with approval by this Court.

26. This Court has given its anxious consideration to the question as to why the implementation of police reforms and investigative safeguards has repeatedly encountered resistance at the administrative level. The record placed before the Court indicates that, on more than one occasion, judicial initiatives intended to strengthen the quality, fairness, and accountability of criminal investigations have not received the de-

gree of institutional support that would ordinarily be expected from the authorities entrusted with civil administration.

27. It is not for this Court to speculate upon the motives of any individual officer or department. However, the sequence of events noticed hereinabove raises legitimate concerns regarding the apparent reluctance of the incumbent ACS (Home) to facilitate and effectively implement measures aimed at improving investigative standards and ensuring compliance with judicial directions. Such an approach, if sustained, has the potential to impede reforms intended to enhance transparency, professionalism, and accountability within the police machinery.

28. The constitutional objective of police reforms is not to diminish the authority of the executive over police administration, but to ensure that investigations are conducted in a fair, impartial, professional, and legally sustainable manner. Any resistance to measures designed to achieve these objectives would be inconsistent with the constitutional mandate of ensuring the rule of law and strengthening public confidence in the criminal justice system.

29. The traditional '*Whitehall ethos*' that governs the civil services in Westminster-style parliamentary democracies is one that prized discretion, secrecy, and anonymity. There may be institutional reasons for such a culture; however, one of its untoward effects is that it renders it extremely difficult for those outside the system to discern how the civil services operate. Such officials are, if not positively secretive, at least extremely discreet.

30. One aspect attached to the civil services is that administrative discretion is both important and desirable. Most would agree that bureaucratic discretion is something to be valued, insofar as it enables public officials to apply rules in a flexible, intelligent, and compassionate manner when circumstances warrant. The other aspect is, unbridled discre-

tion carries with it serious risks- it undermines the rule of law; it serves as a source of illicit power for administrative officials; it relieves them of the obligation to furnish reasons for their decisions; it undermines legal certainty; and it frees public officials from accountability to individuals whose rights may be affected. In practice, such unchecked discretion often amounts to what is commonly characterised as ‘discrimination’.

31. Essentially, the exercise of discretion represents a necessary evil in a hierarchical model, an evil to be tolerated only so long as a more precise form of official action cannot be formulated. The rules and regulations have their origin in the desire to limit discretion as a means of achieving greater accountability.

32. Bureaucratic rigidity, an excess of rules, abundant resources without corresponding wisdom to utilize, and the absence of any formal system of peer assessment are, collectively, the antithesis of accountability. It may be true that, where decisions are taken with absolute and untrammelled discretion, on any ground or for any reason that may suggest itself to the mind of the administrator, no legislative act can, without express language, curtail such unlimited arbitrary power, save that such decisions may be brought within the purview of fraud and corruption; but this is not consonant with the principles of due process and the culture of the rule of law⁹.

33. Before parting with the present matter, this Court considers it appropriate to place on record certain observations which, in its considered opinion, warrant the attention of the ***Secretary, Department of Personnel and Training, Government of India***, being the apex authority entrusted with the governance, regulation, and oversight of the All India Services. The time has come for the State to evolve a doctrine of ‘*superior responsibility*’ and to hold senior officers in a hierarchy criminally ac-

⁹ Selected excerpt from Chapter VI-Administrative Discretion and the Rule of Law of ‘The Machinery of Government – Public Administration and the Liberal State’- a book by Joseph Heath and published by Oxford University Press.

countable for '*failure to prevent and/or punish acts*' of commission or omission on the part of their subordinates.

34. The expression '*fail to prevent*' must be understood to include the taking of administrative measures and the reporting of subordinate misconduct to higher administrative authorities. Exceptional situations with widespread, systematic, and enduring effects on public administration demand exceptional solutions. A '*duty to report or act*' may appropriately be developed in administrative law to address systematic and widely prevalent underperformance, negligence, breaches of ethics, and violations of service codes.

35. Superior officers must be held accountable for the conduct and performance of their subordinates, as it is their professional and administrative responsibility to ensure the effective delivery of public services. Such responsibility may be elevated to criminal liability, where the failure to prevent or punish subordinate misconduct leads to criminal acts such as corruption, fraud, wilful suppression, contempt of Government Orders and Gazette Notifications, and the failure to implement '*State Policy*' and '*Programs*', such as zero tolerance towards organised, institutionalised corruption- whether corruption of the mind, whereby the decision-making process is deliberately perverted to serve private ends under the guise of official authority, or corruption of the purse, whereby public office is converted into an instrument of personal pecuniary gain.

36. This Court, accordingly, recommends to the ***Secretary, Department of Personnel and Training, Government of India***, that the aforesaid observations and recommendations be placed before the competent legislative and executive authorities for due consideration, with a view to evolving an appropriate statutory and regulatory framework incorporating the doctrine of '*superior responsibility*' in the governance of the All India Services and other Central Services. Such a framework, if effect-

ively implemented, would serve to strengthen the culture of accountability, transparency, and rule of law within the civil services and would ensure that the authority vested in senior officers is exercised not as a privilege of rank but as a public trust, answerable to the people and to the institutions of constitutional governance.

37. This Court apprehends that resistance to such a framework may find its source in the fear of losing discretion- that very discretion which has long served as a shield against accountability, and which underlies much of what is commonly described as '*red tapism*'. The rules and regulations have their origin in the desire to limit discretion in order to achieve greater accountability, and that objective must not be allowed to be subverted.

38. This Court now turns to the issue of the appropriate direction to be issued in the present matter in view of the conduct of Shri Sanjay Prasad, IAS (DR 1995), Additional Chief Secretary (Home), Government of Uttar Pradesh.

39. As deliberated in foregoing paragraphs, it appears that the directions issued in *Subhash Chandra (supra)* were the product of an extensive consultative process involving the police establishment, the prosecution department, and the Home Department itself. Notwithstanding the aforesaid, the said directions were not complied with for a period of nearly a year after their issuance. It was only upon this Court specifically raising the issue of non-compliance by order dated 11.02.2026 that a Secretary of the Home Department, even though he was not called upon, filed an affidavit dated 20.02.2026, for the first time intimated the intention of the ACS (Home) to challenge the judgment before the Supreme Court, and no order or any document produced before this Court till the signing of the judgment that the Supreme Court has taken cognizance of the directions issued in *Subhash Chandra (supra)*, even after lapse of

more than three months. This Court is not aware whether the matter ever listed before the Supreme Court.

40. The conduct of Shri Sanjay Prasad, as noticed above, *prima-facie* reflects a deliberate and calculated attempt to undermine the authority of this Court by projecting the proposed Special Leave Petition as a basis for seeking restraint in the enforcement of judicial directions, while simultaneously failing to pursue the said remedy with any degree of diligence or bona fides. Such conduct, if left unaddressed, would have the effect of rendering the orders of Constitutional Courts nugatory at the hands of recalcitrant administrative officers and would set a pernicious precedent for the manner in which judicial directions concerning accountability and police reforms may be treated by the executive. This Court cannot be a silent spectator to such conduct.

41. In view of the aforesaid, while this Court refrains from passing any further order at this stage with respect to the non-compliance of *Subhash Chandra (supra)*, having regard to the resolve of the affidavit dated 20.02.2026 filed by the Secretary (Home).

42. Accordingly, it is directed that the Registrar (Compliance) of this Court shall transmit a certified copy of the present order and the order passed by this Court in *Subhash Chandra (supra)* to the ***Secretary, Department of Personnel and Training (DoPT), Government of India***, being the Cadre Controlling Authority of Shri Sanjay Prasad, IAS (DR 1995), for their record, reference, and such consideration as may be deemed appropriate in the context of the assessment of the said officer's suitability for future assignments by the Appointment Committee of the Cabinet (ACC).

43. During the course of proceedings, this Court has been informed that the corpus has since been recovered by the local police and has been safely restored to the custody of her parents. It has further been brought

to the notice of the Court that the recovery was effected pursuant to the concerted efforts undertaken under the supervision of the Senior Superintendent of Police, Jhansi. In view of the aforesaid development, the principal grievance raised in the present petition no longer survives for consideration on merits, and no further orders are required to be passed in that regard. The present petition is, accordingly, *disposed of*.

44. Before parting, this Court places on record its appreciation for the efforts made by the Senior Superintendent of Police, Jhansi, and the police team concerned in securing the recovery of the corpus and reuniting her with her family.

June 03, 2026
Anil K. Sharma

(Vinod Diwakar, J.)