

Daily Orders: WP 16530/2025

1	ACTING CHIEF JUSTICE AND C M JOSHI	<u>08/07/2025</u>
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CAV ORDER

(PER: HON'BLE MR. V KAMESWAR RAO, ACTING CHIEF JUSTICE)

This order will decide the issue which has arisen as to whether the status report filed by the respondent-State pursuant to our order dated 05.06.2025 need to be retained in the sealed cover or should be taken out.

2. We have heard Smt. S.Susheela, learned Amicus Curiae, Sri. S.S.Naganand, learned Senior Counsel for applicant in IA No.5/2025, Sri. M.S.Shyam Sundar, learned Senior Counsel for respondent No.2, Sri. C.K.Nandakumar, learned Senior Counsel for respondent No.3, Sri. M.B.Nargund, learned Senior Counsel for applicant in IA No.6/2025 and Sri. B.K.Sampath Kumar, learned Senior Counsel for respondent No.4, Sri. Shashi Kiran Shetty, learned Advocate General and Sri. Udaya Holla, learned Senior Counsel for State, Sri. Hithesh Gowda, learned counsel for the impleading party and Sri. G.R.Mohan, learned counsel for applicant in IA No.8/2025.

Submissions:

3. The submission of Smt. S.Susheela, learned Amicus Curiae is that, the Hon'ble Supreme Court has deprecated the procedure of sealed cover in many judgments. She would submit that, the status report has been filed by the State only on the information sought by this Court dated 05.06.2025 on 9 queries which form part of the order of the Court and response filed is on the factual aspect of the reasons led to the stampede and it is not the case of the respondent-State that public interest or for national security reasons or issue involving privacy rights are involved, the status report is required to be kept in the sealed cover. Hence, the status report be taken out of sealed cover. In fact it should be given to the parties impleaded, so that they can meet the case of the State in the status report, otherwise proceedings shall result in unfairness to them. She has referred to the judgment of the Hon'ble Supreme Court in the case of Madhyamam Broadcasting Ltd. v. Union of India [(2023) 13 SCC 401], wherein the Hon'ble Supreme Court has propounded the doctrine of proportionality to balance the equities keeping in view the issue which arises for consideration. She also highlighted the fact that three issues have to be decided by this Court as noted in the order dated 05.06.2025, surely the status report filed by the State is not required to be kept in a sealed cover as the answer to the three issues requires factual finding which is possible if the parties are allowed to reply to factual narrative of the State. It is also her submission that, the proceedings being not adversarial, the State cannot justify keeping the status report in a sealed cover. She has relied upon the following judgments of the Hon'ble Supreme Court in support of her submissions:

- i. Amit Kumar Sharma v. Union of India [(2023) 20 SCC 486];
- ii. Sonali Ashok Tandle v. Ranka Lifestyle Ventures and others [WP(L) No.39511 of 2022 and connected petitions, decided on 07.09.2023];
- iii. S.P. Velumani v. Arappor Iyakkam [(2022) 12 SCC 745];
- iv. Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1].

4. Similarly, Sri. S.S.Naganand, learned Senior Counsel appearing for applicant in IA No.5/2025 would submit that the request as advanced by Sri. Shetty, learned Advocate General, is in violation of principles of natural justice as the principle encapsulates the rule of fair hearing, whereby all the documents which are produced, relied upon by one party used by Court for adjudication must be given to the other party. In other words, the parties to the petition have a right to see the status report to enable them to meet any of the factual aspects highlighted by the State as it may require a response. It is his endeavour to contend that, nothing should be hidden from the opposite parties. According to him, the disclosure of the status report shall result in a fair adjudication by this Court. According to Sri. Naganand, the attempt of the State is primarily to conceal its shortcomings in organizing the event. In support of his submissions, he has referred to the preamble of the Right to Information Act, 2005 which has been enacted by the Parliament by stating "democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;" In support of his submissions, he has also relied upon the judgments as relied upon by Smt. Susheela in support of his submissions.

5. Similarly, Sri. M.S.Shyam Sundar, learned Senior Counsel for respondent No.2 would submit that, it is only Section 192(5) of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) which provides for confidentiality in criminal proceedings. These proceedings are not under Section 192(5) of BNSS and nothing can be confidential which can be kept away from respondents. In substance it is his plea, in the absence of any statutory provisions governing the present proceedings, the sealed cover cannot be resorted to.

6. Similarly, Sri. C.K.Nandakumar, learned Senior Counsel for respondent No.3 would submit that, the sealed cover procedure should be adopted in exceptional circumstances of national security. No such circumstance has been projected by the State other than that the Magisterial Inquiry/Judicial Commission getting influenced by the stand taken by the Government, which cannot be a ground which warrants sealed cover. In fact, the report will help the Magisterial Inquiry/Judicial Commission to appreciate the stand of the State for coming to its own conclusion. He stated that, pleadings and supporting documents filed by respondent No.1-State cannot be afforded a greater privilege than that of similarly situated parties such as the respondents herein. He has also relied upon the judgment of the Hon'ble Supreme Court in the case of Madhyamam Broadcasting Ltd. (supra).

7. Similarly, Sri. B.K.Sampath Kumar, learned Senior Counsel for respondent No.4 would state that, the status report is in respect of facts which would not change merely because the same is kept in a sealed cover. He submits that, the contention of Sri. Shetty that such report shall be misused, is an untenable proposition. According to him, the status report is only for the purpose of laying guidelines to answer the three issues which have been highlighted by this Court. He stated that, enquiries by Magistrate or the Commission are not binding on this Court. So, the request made on behalf of the State to continue to keep the status report in the sealed cover till such time the Magisterial Inquiry/Judicial Commission gives report is clearly unsustainable.

8. Sri. M.B.Nargund, learned Senior Counsel supports the submissions made by Smt. Susheela. According to him, the State is trying to postpone the opening of the sealed cover under the pretext that the same be kept till such time the Magisterial Inquiry/Judicial Commission give its report. He also stated that, the concept of report being filed in a sealed cover shall not be applicable when there is no public interest or national security or privacy rights involved. He stated, the plea to retain the status report in a sealed cover shall amount to overreaching the Court's suo motu

proceedings. He has also relied upon the judgment of the Hon'ble Supreme Court in the case of Madhyamam Broadcasting Ltd. (supra). It is his submission that, the continuance of status report in a sealed cover will harm the judicial proceedings.

9. We note, Sri. Hithesh and Sri. Mohan, learned counsel for impleading applicants would make similar submissions in respect of opening of the sealed cover and for giving the status report to the impleading parties. Submissions of Sri. Shetty, learned Advocate General:

10. Sri. Shetty would state that, the sealed cover is only for the report submitted by the State on the questions reflected in the order passed by this Court on 05.06.2025 and not for the documents. In other words, he stated that, the State is ready to share with the counsel for the impleading parties the documents as filed along with the status report. He also laid stress on the fact that, the report must continue to be in the sealed cover till Magisterial Inquiry and Judicial Commission reports are received. It is his submission that, the Government's view may be used by the Magisterial Inquiry/Judicial Commission and may get influenced by the views to form an opinion.

10.1. The status report submitted on 12.06.2025 was a preliminary response on the queries raised by the Court.

10.2. On the evening of 04.06.2025, a Government Order was issued mandating a Magisterial Inquiry to be conducted by Sri. Jagadish.G, Deputy Commissioner and District Magistrate of Bangalore Urban District.

10.3. Furthermore, the Government established a One Man Commission of Inquiry on 05.06.2025, headed by retired High Court Judge, Justice Michael Cunha, with specific terms of reference and a mandate to complete the investigation and submit a comprehensive report within one month.

10.4. A perusal of the above orders indicates that the scope of the ongoing inquiries intersects and overlaps with the issues framed by this Court. Upon conclusion of the inquiry, these questions are likely to be addressed more comprehensively and supported by additional evidence. Presently statements of all the concerned parties are being taken on record and the fact finding is still underway. The FIRs registered against the organizers (FIR in crime no. 123/2025, 124/2025, 125/2025) are also being investigated by the CID.

10.5. At the outset, it is submitted that the State has no hesitation in disclosing the documents annexed to the Report, except for Documents No.11 to 14 since these documents are still a part of the investigation.

10.6. The status report submitted pursuant to this order of the Court constitutes a preliminary assessment of the incident, prepared in response to specific queries enumerated by the order dated 05.06.2025. It represents the State's evaluation during the early stage of investigation, while concurrent CID investigation, Magisterial Inquiry and Judicial Commission are still ongoing.

10.7. Disclosure of investigative narratives contained in the status report poses substantial risks to the ongoing proceedings. Premature revelation creates opportunities for evidence manipulation, systematic destruction, concealment of records or witness coaching. When subjects of investigation gain knowledge of specific evidence being sought or investigative timelines, they acquire the capacity to systematically undermine the fact-finding process.

10.8. According to him, under our criminal jurisprudence, the investigative agencies ordinarily remain insulated from sharing material which is the subject of investigation until the process concludes and formal reports are submitted.

10.9. The cases referred to and relied upon by the intervenors in support of disclosure are primarily adversarial in nature and the non-disclosure in those cases is permanent. However, the present case is in the nature of a PIL and the respondent-State seeks limited

non-disclosure. The State pleads that the status report should not be disclosed till the Magisterial Inquiry/Judicial Commission reports are completed and their report is submitted.

10.10. This restriction is temporary, extending only until investigation is completed a matter of approximately two weeks after which full disclosure can be made once formal reports are available.

10.11. Statutory provisions in support of such withholding of documents to protect investigative processes, are as follows:

- Section 8(1)(h) of the RTI Act, explicitly exempts "information which would impede the process of investigation or apprehension or prosecution of offenders."

- Similarly, Order XIII Rule 7 of the Supreme Court Rules empowers courts to maintain confidentiality over documents "which the Chief Justice or the Court directs to keep in sealed cover or considers to be of confidential nature."

- Sections 123 and 124 of the Indian Evidence Act, 1872, establish complementary principles protecting official records and communications where disclosure would harm public interest.

10.12. The precedents cited by the intervenors/

respondents against the use of sealed cover pertain to entirely different context-specifically, the denial of fair trial rights or access to positions, non-renewal of licenses, or administrative procedures not being followed (see Amit Kumar Sharma (supra); Madhyamam Broadcasting Ltd. (supra); T. Takano v. SEBI [(2022) 8 SCC 162]). These are cases which were necessarily adversarial, directly affecting the rights and entitlements of the parties in their professional spheres. In contrast, the present case does not involve a challenge to the denial of benefits. Instead, the present case seeks access to information by the court to enable oversight of preventive measures, analyze the causes of the incident and ensure effective corrective action to avoid recurrence.

10.13. In the case of Madhyamam Broadcasting Ltd. (supra), an amicus was appointed who would have access to the information in the sealed cover and this mechanism ensures a balance between secrecy and fairness.

10.14. In the case of T. Takano (supra), there was an exception stated regarding the disclosure of information when it pertains to rights of third parties, which consideration attracted in the present case.

"62.5. The right to disclosure is not absolute. The disclosure of information may affect other third-party interests and the stability and orderly functioning of the securities market. The respondent should prima facie establish that the disclosure of the report would affect third-party rights and the stability and orderly functioning of the securities market. The onus then shifts to the appellant to prove that the information is necessary to defend his case appropriately."

10.15. The only intention of the respondent-State in making these submissions is in furtherance of a fair and impartial inquiry without adversely affecting the rights of any party.

10.16. Therefore, in light of the aforementioned submissions, he stated that this Court retain the status report in the sealed cover till the Inquiries are completed.

Submissions of Sri. Udaya Holla, learned Senior Counsel:

11. According to Sri. Holla, the Magisterial Inquiry/Judicial Commission, notices have been issued to the respondents herein and public notice has also been issued for participation of the public. Several witnesses including people who are witnesses to the incident have been examined. In a matter of 10 days or two weeks, the report of the Magisterial Inquiry/Judicial Commission will be published, which will enormously aid this Court in the present writ petition. Till then, the status report which was filed by the State be directed to be kept in the sealed cover and be 'de-sealed' after the two reports referred to above are published.

11.1. The reason for keeping the status report in a sealed cover is to ensure that it does not have any impact, adverse or otherwise on the Magisterial Inquiry/Judicial Commission. Further, this petition not being an adversarial litigation and which is not like a normal writ petition, the question of objections being filed by the other respondents to the status report of the State does not arise. The State is not contending that the status report should be kept in the sealed cover permanently, but only for a short period till the report of the Magisterial Inquiry/Judicial Commission are published, which is within the next 10 to 15 days.

11.2. Several judgements of the Hon'ble Supreme Court have been cited before this Court. Those judgements have no bearing on the issues in the present case as in those judgements the lis was adversarial and the documents/reports which were sought to be kept in the sealed cover had a direct impact on the case of the adversary. Further, the documents/reports were sought to be kept in a sealed cover till the conclusion of the proceedings before the Court. The position is not so in the instant case. The learned Advocate General has already made a statement that the documents, except four documents which relate to the investigation (and therefore confidential for the present as per Section 192(5) of BNSS) and which have direct impact on the investigation which is under way, can be given to the co-respondents (who are arrayed as accused in the FIR) and others, and only the status report submitted by the State be kept in a sealed cover till the report of the Magisterial Inquiry/Judicial Commission are published, which as stated herein above, will be out in a very short time of 10 to 15 days.

11.3. The status report and the statement submitted by the other co-respondents are all primarily to enable this Court to answer the three questions which were framed by this Court on 05.06.2025. The reports of Magisterial Inquiry and the Judicial Commission will definitely be relevant, especially having regard to the fact that the oral and documentary evidence have been recorded in those proceedings and therefore a lot of light will be shed in respect of the three questions which have been framed by this Court. The other questions which were framed on 05.06.2025 are incidental and the reports will also throw light on those incidental questions as well. Therefore, continuance of the present status quo with regard to status report will not in any way prejudice anyone. Therefore, this Court may defer consideration of the question as to whether the status report be kept in a sealed cover or not, be postponed by 10 to 15 days till the reports of the Magisterial Inquiry/Judicial Commission are published, after which, they can be given to all the respondents. In the meanwhile in terms of the statement of the learned Advocate General, the documents appended to the status report be permitted to be given to co-respondents and others.

Analysis:

12. Having heard the learned counsel for the parties and perused the record, there is no denial to the fact that this Court, based on newspaper reports, took suo motu cognizance of the incident that happened on 04.06.2025, wherein 11 people were killed and several others injured in a stampede.

13. Initially on 05.06.2025, a statement of facts was filed by the State Government which is in public domain. During the hearing on 10.06.2025, Sri. Shetty submitted that he intends to file status report as per order dated 05.06.2025 in a sealed cover. On 01.07.2025, we have heard the above counsel for the parties on the issue whether the status report submitted by Sri. Shetty should remain in the sealed cover or it should be shared with the impleading parties. It is on the said issue, we have reserved the orders.

14. It is a fact that, second status report filed on 12.06.2025 was produced in a sealed cover and the same continues to be kept in a sealed cover except that a copy thereof has been given on Smt. Susheela, learned Amicus Curiae. In substance, the plea of Sri. Shetty is that, the status report and documents at Sl.Nos.11 to 14 (as highlighted in submission by Sri. Shetty) should continue to be kept in a sealed cover till the Magisterial Inquiry/Judicial Commission gives their report. Similar is the submission of Sri. Holla that the status report be continued to be kept in sealed cover.

15. Before we deal with the issue which arises for consideration, it is necessary to reproduce the law laid down by the Hon'ble Supreme Court in various judgments.

15.1. In the case of Madhyamam Broadcasting Ltd. (supra), the Hon'ble Supreme Court has, in some of the paragraphs, held as under:

Re: Sealed cover jurisprudence:

"66. MHA disclosed the material forming the opinion for denying of security clearance solely to the High Court. The High Court instead of deciding if any other less restrictive but equally effective means could have been employed, straight away received the material in a sealed cover without any application of mind. It is now an established principle of natural justice that relevant material must be disclosed to the affected party. This rule ensures that the affected party is able to effectively exercise their right to appeal. When the State Government claims non-disclosure on the ground of public interest under Section 124 of the Evidence Act, the material is removed from the trial itself. As opposed to this method, when relevant material is disclosed in a sealed cover, there are two injuries that are perpetuated. First, the documents are not available to the affected party. Second, the documents are relied upon by the opposite party (which is most often the State) in the course of the arguments, and the court arrives at a finding by relying on the material. In such a case, the affected party does not have any recourse to legal remedies because it would be unable to (dis) prove any inferences from the material before the adjudicating authority.

67. This form of adjudication perpetuates a culture of secrecy and opaqueness, and places the judgment beyond the reach of challenge. The affected party would be unable to "contradict errors, identify omissions, challenge the credibility of informants or refute false allegations". [Adil Charkaoui v. Minister of Citizenship and Immigration and Minister of Public Safety and Emergency Preparedness, 2007 SCC OnLine Can SC 9 : (2007) 1 SCR 350 (Can SC)] The right to seek judicial review which has now been read into Articles 14 and 21 is restricted. A corresponding effect of the sealed cover procedure is a non-reasoned order.

68. In Amit Kumar Sharma v. Union of India [Amit Kumar Sharma v. Union of India, (2023) 20 SCC 486 : 2022 SCC OnLine SC 1570] , one of us (D.Y. Chandrachud, J.) speaking for the Court commented on the procedural infirmities which the procedure of sealed cover perpetuates : (SCC paras 25-26)

"25. The elementary principle of law is that all material which is relied upon by either party in the course of a judicial proceeding must be disclosed. Even if the adjudicating authority does not rely on the material while arriving at a finding, information that is relevant to the dispute, which would with "reasonable probability" influence the decision

of the authority must be disclosed. A one-sided submission of material which forms the subject-matter of adjudication to the exclusion of the other party causes a serious violation of natural justice. In the present case, this has resulted in grave prejudice to officers whose careers are directly affected as a consequence.

26. The non-disclosure of relevant material to the affected party and its disclosure in a sealed cover to the adjudicating authority (in this case AFT) sets a dangerous precedent. The disclosure of relevant material to the adjudicating authority in a sealed cover makes the process of adjudication vague and opaque. The disclosure in a sealed cover perpetuates two problems. Firstly, it denies the aggrieved party their legal right to effectively challenge an order since the adjudication of issues has proceeded on the basis of unshared material provided in a sealed cover. The adjudicating authority while relying on material furnished in the sealed cover arrives at a finding which is then effectively placed beyond the reach of challenge. Secondly, it perpetuates a culture of opaqueness and secrecy. It bestows absolute power in the hands of the adjudicating authority. It also tilts the balance of power in a litigation in favour of a dominant party which has control over information. Most often than not this is the state. A judicial order accompanied by reasons is the hallmark of the justice system. It espouses the rule of law. However, the sealed cover practice places the process by which the decision is arrived beyond scrutiny. The sealed cover procedure affects the functioning of the justice delivery system both at an individual case-to-case level and at an institutional level.”

(emphasis in original)

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158. The substance of a public interest immunity claim is to seek an exception to the compliance of principles of natural justice. We have already held above that a departure from compliance of principles of procedural fairness, after it has been proved that the party has been denied a fair and reasonable hearing due to non-compliance must be tested on the proportionality standard.

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182. It may be argued that the removal of the documents+ from the proceedings would render the proceedings non-justiciable if the documents that are sought to be protected are so closely intertwined with the cause of action. Though the argument holds merit on a cursory glance, it does not hold water when delved into deeper. As observed above, one of the relevant considerations for the court in the balancing stage of adjudicating the public interest immunity claim is whether the non-disclosure of the material would render the issue non-justiciable. The court while analysing the relevancy of the material and the potential non-justiciability of the issue due to non-disclosure may direct that the material should be disclosed. The purpose of the balancing prong is to weigh in the conflicting claims and effects of such claims. Even if the disclosure would conceivably injure public interest, the courts may still dismiss the claim of public interest immunity if the non-disclosure would render the issue non-justiciable, and on the facts of the case it is decided that the injury due to non-disclosure outweighs the injury due to disclosure.

183. The courts could adopt the course of action of redacting the confidential portions of the document and providing a summary of the contents of the document instead of opting for the sealed cover procedure to fairly exclude the document from the proceedings on a successful public interest immunity claim. Both the parties can then only be permitted to refer to the redacted version of the document or the summary in the proceeding. In view of the above discussion, we are of the opinion that public interest immunity proceeding is a less restrictive means to deal with non-disclosure on the grounds of public interest and confidentiality. This leaves the final issue to be answered : if public interest immunity is a less restrictive means, then whether the procedure of sealed cover can be used at all, and if so, in what circumstances would it be permissible for the court to exercise its power to secure evidence in a sealed cover. While it would be beyond the scope of this judgment to lay down the possible situations when the sealed cover procedure can be used, it is sufficient to state that if the purpose could be realised effectively by public interest immunity proceedings or any other less restrictive means, then the sealed cover procedure should not be adopted. The court should undertake an analysis of the possible procedural modalities that could be used to realise the purpose, and the means that are less restrictive of the procedural guarantees must be adopted.

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195.2.7. The courts assess the validity of public interest immunity claims, which address the same harms as the sealed cover procedure, based on the structured proportionality standard. The power of courts to secure material in a sealed cover when contradistinguished with the scope of assessment of public interest immunity claims is rather unguided and ad hoc. The standard of review that is used by the courts in public interest immunity claims and the lack of such a standard in sealed cover proceedings to protect procedural safeguards indicates that public interest immunity claims constitute less restrictive means. Additionally, while public interest immunity claims conceivably impact the principles of natural justice, sealed cover proceedings infringe the principles of natural justice and open justice;”

(Emphasis supplied)

15.2. In the case of Amit Kumar Sharma (supra), the Hon'ble Supreme Court has, in paragraphs No.25 and 26, held as under:

“25. The elementary principle of law is that all material which is relied upon by either party in the course of a judicial proceeding must be disclosed. Even if the adjudicating authority does not rely on the material while arriving at a finding, information that is relevant to the dispute, which would with “reasonable probability” influence the decision of the authority must be disclosed. A one-sided submission of material which forms the subject-matter of adjudication to the exclusion of the other party causes a serious violation of natural justice. In the present case, this has resulted in grave prejudice to officers whose careers are directly affected as a consequence.

26. The non-disclosure of relevant material to the affected party and its disclosure in a sealed cover to the adjudicating authority (in this case AFT) sets a dangerous precedent. The disclosure of relevant material to the adjudicating authority in a sealed cover makes the process of adjudication vague and opaque. The disclosure in a sealed cover perpetuates two problems. Firstly, it denies the aggrieved party their legal right to effectively challenge an order since the adjudication of issues has proceeded on the basis of unshared material provided in a sealed cover. The adjudicating authority while relying on material furnished in the sealed cover arrives at a finding which is then effectively placed beyond the reach of challenge. Secondly, it perpetuates a culture of opaqueness and secrecy. It bestows absolute power in the hands of the adjudicating authority. It also tilts the balance of power in a litigation in favour of a dominant party which has control over information. Most often than not this is the state. A



judicial order accompanied by reasons is the hallmark of the justice system. It espouses the rule of law. However, the sealed cover practice places the process by which the decision is arrived beyond scrutiny. The sealed cover procedure affects the functioning of the justice delivery system both at an individual case-to-case level and at an institutional level. However, this is not to say that all information must be disclosed in the public. Illustratively, sensitive information affecting the privacy of individuals such as the identity of a sexual harassment victim cannot be disclosed. The measure of non-disclosure of sensitive information in exceptional circumstances must be proportionate to the purpose that the non-disclosure seeks to serve. The exceptions should not, however, become the norm."

15.3. In the case of Sonali Ashok Tandle (supra), the Hon'ble Supreme Court has, in paragraph No.17, held as under:

"17. Pausing briefly for a moment, we note that the previous Division Bench accepted without comment the tendering of some documents in sealed cover by the 1st Respondent. This Court has previously thoroughly deprecated this practice [Order dated 18th September 2020 in LD-VC-Comm Arbitration Petition No 30 of 2020 and other matters, Rajeev Kumar (HUF) & Anr v Anugrah Stock & Brokers Pvt Ltd.] So has the Supreme Court, most recently in Madhyamam Broadcasting Ltd v Union of India & Ors. 2023 SCC OnLine SC 366. We specifically disapprove of this and do not permit it. It undermines the legitimacy of the adjudication process in any system based on an adversarial proceeding. The simplest general principle is that anything that the Court can see, the opposing party must be allowed to see. Any exceptions must be narrowly tailored, whether under the Evidence Act or some other governing law. Nothing in this matter invites a single one of the exceptions in the Evidence Act regarding privilege, i.e., immunity from disclosure. In other jurisdictions, most particularly in the UK limited disclosures or non-disclosures are permitted. But such 'Closed Material Proceedings' are now governed by statute and always subject to judicial oversight. They are mostly in cases of national security, immigration, etc. It is never for a party to decide for itself what it will or will not disclose -- most especially when there is an order of the Court ordering and compelling disclosure on affidavit. Where there are private disputes between two parties and a Court has ordered a party to make a disclosure on Affidavit of some material, there is simply no question of that party putting in anything 'in sealed cover'. As a matter of law, that is non-compliance with a judicial order. In a given case, it will invite action in contempt. If immunity from disclosure is sought, that is an application that must be made to a court and must receive a judicial order. No litigant can disadvantage the opponent by squirrelling some information into the court record 'in sealed cover'. No party is entitled can rely on such 'sealed cover material' to the prejudice of the other side, and no court should permit it. To do so flies in the face of every concept of fair justice and openness and transparency in the decision-making process. It is time to bury this thoroughly pernicious practice."

15.4. In the case of S.P. Velumani (supra), the Hon'ble Supreme Court has, in paragraphs No.25 and 26, held as under:

"25. We may note that the contention of the State may be appropriate under normal circumstances wherein the accused is entitled to all the documents relied upon by the prosecution after the Magistrate takes cognizance in terms of Section 207CrPC. However, this case is easily distinguishable on its facts. Initiation of the FIR in the present case stems from the writ proceedings before the High Court, wherein the State has opted to re-examine the issue in contradiction of their own affidavit and the preliminary report submitted earlier before the High Court stating that commission of cognizable offence had not been made out. It is in this background we hold that the mandate of Section 207CrPC cannot be read as a provision etched in stone to cause serious violation of the rights of the appellant-accused as well as to the principles of natural justice.

26. Viewed from a different angle, it must be emphasised that prosecution by the State ought to be carried out in a manner consistent with the right to fair trial, as enshrined under Article 21 of the Constitution."

15.5. In the case of Sidhartha Vashisht (supra), the Hon'ble Supreme Court has, in paragraph No.218, held as under:

"218. The liberty of an accused cannot be interfered with except under due process of law. The expression "due process of law" shall deem to include fairness in trial. The court (sic Code) gives a right to the accused to receive all documents and statements as well as to move an application for production of any record or witness in support of his case. This constitutional mandate and statutory rights given to the accused place an implied obligation upon the prosecution (prosecution and the Prosecutor) to make fair disclosure. The concept of fair disclosure would take in its ambit furnishing of a document which the prosecution relies upon whether filed in court or not. That document should essentially be furnished to the accused and even in the cases where during investigation a document is bona fide obtained by the investigating agency and in the opinion of the Prosecutor is relevant and would help in arriving at the truth, that document should also be disclosed to the accused."

16. Having noted the position of law, it must be stated that, in the facts of this case, the plea of Sri. Shetty and Sri. Holla does not appeal the Court. This we say so because, the law governing the sealed cover is no more *res integra* in view of the judgments referred to above and the same will not help the plea advanced by Sri. Shetty and Sri. Holla. This we say so because, the case in hand does not fall in three categories where sealed cover can be adopted i.e., only when it is a case which involves public interest or national security or privacy rights. It is not such a case pleaded either by Sri. Shetty or Sri. Holla. Their only plea is that, if the stand taken by the State in the status report is disclosed, the Magisterial Inquiry/Judicial Commission may get influenced by the status report, which has the stand taken by the Government. It may be stated, the doctrine of proportionality as enunciated by the Hon'ble Supreme Court in the case of Madhyamam Broadcasting Ltd. (supra) stipulates the reasons to keep the report secret has to be juxtaposed with the plea of national security, public interest and privacy rights only and not the reasons as urged by Sri. Shetty and Sri. Holla that sealed cover, if shared, may influence the Magisterial Inquiry/Judicial Commission. Even on facts we find that, those parameters are not met in as much, it is not a case of national security or privacy rights. Even public interest shall not come into play for more than one reason; firstly, no such plea is advanced; secondly, the ground to await the report of Magisterial Inquiry or Judicial Commission has no public interest angle. That apart, even the ground that the Magisterial Inquiry/Judicial Commission may get influenced by the stand/facts urged by the State in the status report is unmerited in as much as such a plea has no public interest angle and surely a retired High Court Judge and an All India Service Officer who are heading the Judicial Commission/Magisterial Inquiry cannot be susceptible to influences emanating from the status report of

respondent No.1. In fact, such arguments have no factual basis. That apart, these proceedings have been initiated suo motu by this Court to know the reasons led to the tragedy; whether it could have been prevented and what measures to be taken to prevent such tragedies in future. The finding on those issues has to be on factual foundation. Moreover we are of the view that, if the sealed cover is opened and the report is shared with the respondents, they can assist the Court to understand the facts in a better perspective including the reasons which led to the incident and also it could have been prevented. It shall also signify a fair chance being given to the parties to narrate the happening of events on 04.06.2025 as per their perspective. In any case, when replies/response of respondents No.2, 3 and 4 on the happening of events on 04.06.2025 has been shared with the counsel for the State, there is no reason, nor any justification not to share the status report as filed by the State. Otherwise, it would be unfair to the impleaded parties who shared their stand on the events happened on 04.06.2025 but not the State.

17. Sri. Shyam Sundar is right in stating, the proceedings being not under Section 192(5) of the BNSS, there is no ground to maintain confidentiality, in respect of investigation. We also agree with the submission made by Sri. Sampath Kumar that facts once narrated would not change after the Magisterial Inquiry/Judicial Commission submit their report. In other words, what has been stated by the respondent-State in the report are the facts as perceived by the Government. The facts as perceived by the Government would not change after the reports have been submitted by the Judicial Commission/Magisterial Inquiry. Similarly on documents, Sri. Shetty during his oral submissions, agreed to serve the same on the impleaded parties. But for the first time in the written submissions, has taken a different stand to contend that documents No.11 to 14 cannot be shared. We are afraid, such a plea is an afterthought and is not sustainable, as we find with regard to the documents No.11 to 14, no privilege has been claimed. In any case, the plea that those documents are part of the investigation is also not appealing. A perusal of the documents at Nos.11 to 14 are document(s), (11) which was issued in the year 2019 i.e., almost six years back and documents at (12), (13) and (14) are documents relatable to deployment of Police personnel and arrangements made by traffic regulating authority on prior occasions and on 04.06.2025. It is not a case that these documents were discovered during investigation by the Investigation Officer in respect of the FIRs registered, so as to claim the benefit of confidentiality.

18. So we accordingly direct that, the status report dated 12.06.2025 with translations filed by the State shall be part of the file and a copy thereof shall be furnished by the State to the respondents No.2 to 4 within four days from today.

ORAL ORDER

(PER: HON'BLE MR. V KAMESWAR RAO, ACTING CHIEF JUSTICE)

Re-notify on 16.07.2025 at 02:30 p.m.

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