



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

PUBLIC INTEREST LITIGATION (PIL) No. - 16150 of 2020

Suo-Moto Inre Right to Decent and Dignified Last Rites/Cremat
.....Petitioner(s)

Versus

State of U.P. Thru Additional Chief Secretary Home and Ors.
.....Respondent(s)

Counsel for Petitioner(s)	: Abhinav Bhattacharya, Ajit Singh, Anjani Kumar Mishra, Ashish Kumar Agarwal, Atul K. Singh, Atul Kumar Singh, Digvijay Singh Yadav, Jaideep Narain Mathur (ac, Nadeem Murtaza, Onkar Singh, Pradeep Kumar Singh, Seema Kushwaha, Sharad Bhatnagar
Counsel for Respondent(s)	: C.S.C., A. S, G., Abdul Ahad, Akansha Dubey, Anurag Kumar Singh, Ashok Shukla, Dr. Ravi Kumar Mishra, Manjusha, Pranjal Krishna, Satyaveer Singh, Shagun Srivastava

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE JASPREET SINGH, J.**

1. Shri Mahmood Pracha, learned counsel, who has appeared through video conferencing for the victim's family assisted by Abdul Ahad and Shri Shri Pranjal Krishna, learned counsel for the State are present.

2. We started final hearing of the matter today, when Shri Pracha, learned counsel for the victim's family invited our attention to para 6 of the order of Hon'ble Supreme Court dated 27.10.2020, wherein the learned Solicitor General had made a statement before the Supreme Court in the proceedings arising out of these proceedings before us that the instant petition would not be considered as an adversarial litigation and the

respondents are also interested that a fair investigation be conducted and the accused be brought to book.

3. With reference to the said statement made before the Hon'ble Supreme Court, it was contended that the State, as per the said statement was not to consider the proceedings in this Public Interest Litigation as an adversarial litigation.

4. He then invited our attention to our own observations through our order dated 12.10.2020 wherein learned Senior Counsel appearing on behalf of the State had made a statement that considering the larger issues of public interest involved, which have an impact throughout the State of U.P. and not merely the victim's family, the State did not want to raise such technicalities pertaining to territorial jurisdiction in a matter which has been considered to be of a great public importance, compelling the Court to take suo motu action. She further stated that the State is not treating it as an adversarial litigation and would extend its full cooperation in the proceedings before this Court at Lucknow.

5. The contention of Shri Pracha is that contrary to the recorded stand of the State before the Hon'ble Supreme Court and before this Court, the State in fact has treated these proceedings as an adversarial litigation, inasmuch as, when a detailed order was passed by this Court on 26.07.2022 granting certain statutory reliefs to the victim's family for rehabilitation/relocation etc., the same was challenged by the State Government before the Supreme Court tooth and nail. It is another matter that the Special Leave Petition filed by the State came to be dismissed but in spite of the aforesaid proposed stand of the State before the Hon'ble Supreme Court and the High Court, the State has resisted compliance of the order dated 26.07.2022 on one pretext or the other with the result that till date, fruits of the said order especially regarding rehabilitation and relocation have not reached the victim's family.

6. On being asked to demonstrate as to which of the directions contained therein have not been complied, Shri Pracha invited our attention to paragraphs 92 to 96 pertaining to relocation of the family. We need not reproduce the aforesaid paragraphs as they are already part of our earlier order dated 26.07.2022.

7. On being confronted, when we asked the learned State Counsel as to whether the family has been relocated to any place outside Hathras, learned counsel for the State invited our attention to an affidavit of compliance dated 21.03.2024 specifically para 4(b) thereof wherein according to the State, an option had been given to the victim's family for relocation in any of the three districts, namely Aligarh, Etah, or Kasganj. In this regard, Para 4(b) is quoted below.

"4(b) Relocation of the Family: It is humbly submitted that the State Government in accordance with the Order dated 26.07.2022 of this Hon'ble High Court to relocate the family of the deceased within the territory of the State of Uttar Pradesh have provided the family with an option to choose from three districts of Uttar Pradesh, namely Aligarh, Etah, Kasganj. The State Government will make sure that the process of relocation of the family is carried out as soon as possible pursuant to the decision of the family of the deceased in this regard."

8. In this context, Shri Pracha invited our attention to the order dated 11.07.2024 which records the fact that the family had not been rehabilitated to any other suitable place in the district of their choice, such as Ghaziabad or Noida.

9. Thereafter, the matter came up before this Court on 26.09.2024, we passed the following order:

"Instructions have been received by the Dy. Solicitor General of India with regard to the security arrangements etc. to be provided to the victim's family in response to our order dated 11.07.2024.

Let an affidavit be filed by a Gazetted Officer of the Cr.P.F. in this regard by the next date.

We inquired from the State Counsel Sri Pranjal Krishna as to what happened to the compliance of our order dated 20.07.2022, whereupon he invited our attention to an affidavit dated 21st March, 2024 and the letter annexed with it dated 04.03.2024 wherein the victim's family was requested to choose any one out of the three Districts, namely Etah, Kasganj and Aligarh for their rehabilitation

and it was also indicated therein that as and when the District is choosen, the job as directed by this court would be offered to them, however, as per Sri Krishna, the family responded to it vide its letter dated 06.03.2024 submitting that they wish to be rehabilitated in Delhi.

Today, Sri Pracha, learned counsel appearing for the victim's family says that the State Government is deliberately delaying the matter. He further submits that without prejudice to their rights in the pending S.L.P. before the Hon'ble Supreme Court where they have sought relocation at New Delhi, if the State Government considers their rehabilitation/relocation at Ghaziabad or Noida, where their other family members are residing, the family would not have any objection in this regard.

Sri Pranjal Krishna says that he will seek instructions in this regard.

With regard to the submission made by Sri Pracha that the State Government is deliberately delaying the matter, as of now we do not find any merit in this for the reason that on 04.03.2024 the family was asked to choose between three Districts and they responded that they would like to be relocated at New Delhi. We have already rejected this prayer, without prejudice to the rights of the victim's family in the S.L.P. pending before the Supreme Court.

In fact, it would be better if the State Government undertakes consideration of the rehabilitation/relocation of the victim's family to the said Districts, without being unnecessarily rigid in this regard, looking into the plight of the victim's family.

Of course there has been a delay since passing of the order dated 26.02.2022, which we will consider subsequently, if the occasion so arises.

List this case in the first week of November, 2024."

10. As would be evident from a reading of the order dated 26.09.2024, we directed the State Government to undertake a consideration of rehabilitation/relocation of the victim's family

to the districts of Ghaziabad or Noida, without being unnecessarily rigid in this regard, looking into the plight of the victim's family.

11. On 14.11.2024, when the case was taken up, we were informed by the State that the victim's family had not moved any formal application in furtherance of the orders passed on 26.09.2024. The order dated 14.11.2024 reads as under:

"In response to our earlier order dated 26.09.2024, Sri Pranjal Krishna, learned counsel appearing for the State has instructions from the State Government to inform the Court firstly that similar issue as referred in our order dated 26.09.2024 is pending consideration before the Supreme Court where the family has sought relocation/rehabilitation in Delhi.

Secondly, there is no formal application by the victim's family seeking relocation/rehabilitation at Ghaziabad or Noida in the State of U.P., though, their counsel had made such a request on their behalf in the order dated 26.09.2024 was passed.

We asked Sri Mahmood Pracha, learned Senior Counsel appearing for the victim's family as to whether it was possible for the victim's family to make such application either before the District Magistrate, Hathras or before us, the respondent while saying that in fact the victim's family would make such an application before the District Magistrate, Hathras and the same would be forwarded by him i.e. Mr. Pracha, to Sri Pranjal Krishna who is representing the State of U.P. and that a decision should be taken either way at the earliest because this matter is lingering for quite a some time and ever since February, 2024 he has been requesting for relocation/rehabilitation of the family at Ghaziabad or Noida without prejudice to their rights in the pending Special Leave Petition before the Supreme Court wherein they have sought the relocation/rehabilitation at New Delhi.

Having heard, learned counsel for the parties, we are of the view that without prejudice to their rights before the SLP pending before the Hon'ble Supreme Court of India at the behest of the victim's family where they are seeking relocation/rehabilitation to Delhi as the victim's family wants relocation/rehabilitation at Ghaziabad or Noida then it should move a formal application before the District Magistrate, Hathras whereupon the District Magistrate, Hathras, if he is competent to take a decision, he shall take a decision in this regard, if not, he shall forward the same to the State Government which shall take the decision and apprise the Court about the decision taken by the next date. A copy of such application would be forwarded by Sri Mahmood Pracha, learned Senior Counsel to Sri Pranjal Krishna, learned counsel for the State so that Sri Pranjal Krishna, Advocate should also forward to the concerned District Magistrate, Hathras and to the concerned Department of State Government for a decision as aforesaid.

This order is being passed without prejudice to the rights of the parties in these proceedings as stated by Sri Mahmood Pracha, learned Senior Counsel for the victim's family.

The matter shall now come up on 08th January, 2025."

12. Thereafter, the victim's family submitted an application as referred in the abovequoted order on 02.12.2024.

13. On 08.01.2025 following order was passed : -

"In pursuance to our order dated 14.11.2024, it is informed that the victim's family has submitted an application before the State Government on 02.12.2024 for their reallocation/rehabilitation at Ghaziabad/Gautam Buddh Nagar as the case may be.

Learned counsel appearing for the State informs us that the said application is under consideration and a meeting was convened on 31.12.2024 for the said purpose but the Additional Chief Secretary (Home) had been transferred, moreover, there is Kumbh Mela going on, therefore, at

least two months' time is required for consideration of the application by the victim's family.

Mr. Mahmood Pracha, learned Senior Counsel appearing for the victim's family has an objection to the time limit prayed for. He says that the Court may not consider the grant of further time to the State Government and the Court should consider directing the State Government to provide a house at Ghaziabad/Gautam Buddh Nagar.

We are, however, of the opinion that a reasonable time should be given to the State Government for considering the request of the victim's family. We accordingly provide six weeks' time to the State Government for the said purpose. List on 24.02.2025."

14. Thereafter, it is informed that on 22.02.2025 a decision was taken by the State Government, as the District Magistrate, Hathras was not competent to take a decision regarding relocation of the family outside District Hathras. The said decision has been filed by the State along with the affidavit dated 24.02.2025.

15. After going through the said affidavit and the decision of the State Government dated 22.02.2025, we passed an order on 24.02.2025 itself, in the following terms:

"1. Heard.

2. In response to our earlier orders, especially the one dated 08.01.2025, an affidavit has been filed by the State authorities which is taken on record. A purported decision taken in compliance of the said order dated 08.01.2025 has been annexed as Annexure-2 to the affidavit which is dated 22.02.2025. We have gone through the said decision. It does not contain even a cursory reference to the rehabilitation of the victim's family at Ghaziabad/Gautam Buddh Nagar. It only reiterates the decision taken earlier regarding their rehabilitation in District Kasganj, Eta or Aligarh. This is hardly a decision on the application of the victim's family as referred in our dated 08.01.2025. We take the said decision as a denial of the prayer of the victim's family for rehabilitation at

Ghaziabad/Gautam Buddh Nagar. For the moment, we do not express any opinion on the reasons given in the order.

3. Mr. Mahmood Pracha, learned counsel appearing for the victim's family says that he has been referred in the earlier orders as Senior Counsel, but, in fact, he has not been designated as Senior Counsel nor has he ever applied for being designated as Senior Counsel. We take note of this submission and accordingly provide that wherever in the earlier orders Mr. Pracha has been referred as Senior Counsel, it should be read and understood as a reference to Mr. Pracha, Advocate and nothing more.

4. Mr. Pracha offers to prepare a chronology of relevant dates and events of the case along with skeletal points on which he wish to address the Court and a compilation of relevant rulings on which he wish to rely, before the next date and file it in Court.

5. List this case on 27.03.2025 at 3.00 PM.

6. Counsel for the parties including the learned Amicus should come prepared for final hearing of the matter."

16. As would be evident from para 2 of the aforesaid order, we were of the opinion that the said decision dated 22.02.2025 does not contain even a cursory reference to rehabilitation of the victim's family at Ghaziabad/Gautam Buddh Nagar. It only reiterates the decision taken earlier regarding the rehabilitation in district Kasganj, Etah, or Aligarh. We were of the opinion that this was hardly a decision on the application of the victim's family as referred in our order dated 08.01.2025 and the earlier orders. We took the said decision as a denial of the prayer of the victim's family for rehabilitation at Ghaziabad/Gautam Buddh Nagar. Of course, at that moment, we did not express any opinion on the reasons given in the order.

17. We have heard the matter today and have again gone through the said decision dated 22.02.2025. The relevant extract of the decision dated 22.02.2025 is as under:

"2 दिये गये प्रत्यावेदन में जनपद-नोएडा या गाजियाबाद में पुनर्वासित करने एवं रोजगार दिलाये-जाने का अनुरोध किया गया है।

3 जिलाधिकारी, हाथरस द्वारा पत्र दिनांक-03.12.2024 के माध्यम से उपरोक्त जनपद-नोएडा एवं गाजियाबाद में पुनर्वासित करने एवं रोजगार देने का क्षेत्राधिकार जिलाधिकारी, हाथरस में निहित न होने के कारण श्री xxxxxxxx का उपरोक्त प्रत्यावेदन पर निर्णय लिये जाने हेतु शासन को प्रेषित किया गया।

4 प्रश्नगत प्रकरण में मा० उच्च न्यायालय द्वारा पारित उपर्युक्त आदेश दिनांक

-14.11.2024 के अनुपालन एवं जिलाधिकारी, जनपद-हाथरस के पत्र दिनांक - 03.12.2024 के सम्बन्ध में निर्णय लेने हेतु एक बैठक दिनांक-07.02.2025 को आयोजित की गयी।

5 उपरोक्त बैठक में श्री xxxxxxxxxx के प्रत्यावेदन पर शासन द्वारा सम्यक - विचारोपरान्त यह निर्णय लिया गया है कि घटना, विचारण के पूर्ण होने तथा विचारण न्यायालय द्वारा उक्त घटना, सामूहिक बलात्कार और हत्या के बजाए सदोष मानव वध पाए जाने संबंधी निष्कर्ष, विधिक प्राविधानों, मृतका के परिजनों की व्यावहारिक आवश्यकता, प्रस्तुत किए गए औचित्यों, वित्तीय संसाधनों की आवश्यकता तथा व्यापक नीतिगत पहलुओं को विचार में लेते हुए उन्हें जनपद-कासगंज, एटा एवं अलीगढ़ (मण्डल-अलीगढ़ के जनपद) में से किसी एक जनपद का विकल्प चुनने पर उस जनपद में पुनर्वासित किया जायेगा। श्री xxxxxxxxxx द्वारा जनपद का चयन करने के उपरान्त चयनित जनपद में रोजगार भी उपलब्ध कराने की कार्यवाही की जायेगी।

6- श्री xxxxxxxxxx के वर्तमान निवास जनपद-हाथरस में स्थित भूमि एवं आवास को राज्य सरकार के पक्ष में हस्तान्तरित करने की सहमति के उपरान्त भूमि/आवास जनपद-कासगंज, एटा एवं अलीगढ़ में आवंटित की जायेगी।

7- उपरोक्त वर्णित स्थिति के दृष्टिगत श्री xxxxxxxxxx द्वारा प्रेषित प्रत्यावेदन दिनांक-02.12.2024 को तनुसार निस्तारित किया जाता है।"

18. The decision of the State Government is essentially contained in paras 5 and 6 as other paras merely mention the facts.

19. We have once again gone through our orders dated 26.09.2024, 14.11.2024, 08.01.2025 and 24.02.2025. We reiterate and reaffirm our observations with regard to the decision of the State dated 22.02.2025 contained in our order dated 24.02.2025. When the High Court issues a direction for considering rehabilitation/ relocation of the victim's family to Ghaziabad or Noida, then a considered decision is required to

be taken with due and proper application of mind and the orders passed by us. No prudent person, much less a Judge, can say that paras 5 and 6 contain any such consideration. The decision contained therein does not even mention about the family's rehabilitation/relocation at Ghaziabad or Noida what to say of any consideration. In fact, we are constrained to observe that the decision, if at all it is a decision, is also in contempt of the orders passed by the High Court earlier, as it does not disclose any application of mind and consideration whatsoever and virtually brushes aside the order of this Court and the request of the family to be relocated as aforesaid.

20. Shri Pracha says that Aligarh, Kasganj and Etah are places nearby Hathrus and danger to the lives of victim's family cannot be ruled out in these places. Most importantly, he says that victim's family have no relations in these districts and they will lead an isolated life in these Districts whereas they have relations in Ghaziabad and Noida, if they are relocated or rehabilitated in either of the districts the family will be able to lead a normal life without fear. In fact, he says that this issue was brought to the notice of the Court earlier also while passing the order dated 22.07.2026 and has been noticed therein. He says that even till date the State has not provided succour to the victim's family with regard to rehabilitation and relocation and reconsideration of matter and the decision dated 22.02.2025 is a mere sham which also goes to show that the State is bent upon not relocating/ rehabilitating the victim's family in either of the aforesaid two districts of Ghaziabad or Noida inspite of hardships of the family and the reasons given by the family for not preferring relocation/rehabilitation at Aligarh, Kasganj and Etah.

21. We are constrained to observe that there appears to be an unnecessary resistance by the State to a consideration as was ordered by us vide our order dated 26.09.2024, 14.11.2024 and 08.01.2025. We in fact asked learned counsel for the State as to where is the consideration as was ordered by this Court on 26.09.2024, 14.11.2024 and 08.01.2025, learned counsel could only refer to the decision dated 22.02.2025 which in fact is no decision in the eyes of law, for the reasons already mentioned. Such orders give credence to the assertion of the learned counsel for victim's family that the State is treating it as an adversarial litigation and is adamant not to grant statutory

benefits to the victim's family under the orders of this Court referred above. We, therefore, see no reason to grant any further time to the State for reconsideration of the matter. We accordingly set aside the decision dated 22.02.2025 and direct the State Government to rehabilitate and relocate the victim's family in Ghaziabad or Noida, as the case may be, positively within three months.

22. A compliance affidavit shall be filed by none other than the Additional Chief Secretary, (Home) Government of U.P., Lucknow.

23. Once the rehabilitation takes place, then the provision of job to one of the family members, as was ordered on 26.07.2022 to which the State has agreed as stated in para 4(c) of the affidavit dated 21.03.2024 will also be done.

24. We intended to continue with the final hearing of the matter, but first of all, we deem it necessary to ensure compliance of our orders by the State Government and thereafter we will continue with the hearing and in case if the order is not complied, the Additional Chief Secretary (Home) Government of U.P., Lucknow shall appear before this Court on the next date.

25. We are conscious of our observations made in the order dated 26.07.2022 about the remedy before Special Court in paragraphs 95 and 96, but we have also qualified our observations in this regard by the words "unless exceptional circumstances exist for approaching the High Court" and we find that there are exceptional circumstances as mentioned hereinabove for us to consider this aspect once again in view of intransigence of the State in this regard and non compliance of our orders dated 26.09.2024, 14.11.2024 and 08.01.2025. In these circumstances, we are of the opinion that the Special Court may not be suited to consider such a matter, and it is the High Court which should step in once again.

26. List on 30.11.2026 at 02:15 PM.

(Jaspreet Singh,J.) (Rajan Roy,J.)

August 24, 2026

Asheesh