

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15942 of 2024

CNR No. BRHC010962222024

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Shanti Devi W/o - Late Ram Bhajan Choudhary R/o-Village and Post-Mokamaghat Ward No. 27, P.S.-Mokama, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Addl. Chief Secretary, Health Department, Government of Bihar, Patna.
2. The Addl. Chief Secretary, Health Department, Government of Bihar, 1st Floor, Vikas Bhavan, Bailey Road, Patna. Email id-health-bih@nic.in
3. The Disaster Management Department, Bihar, Patna. through Addl. Chief Secretary-Cum-Second Appellate Authority, the Department Public Grievance Redressal Officer,
4. The State Health Society, Patna through the Executive Director, Parivar Kalyan Bhawan, Sheikhpura, Patna-800014.
5. The Commissioner, Patna. At Commissionaire Patna. Email id-divcom-patna-bih@nic.in
6. The Distirct Magistrate, Patna, At Patna.Email Id-dm patna.bih@nic.in
7. The Superintendent, Nalanda Medical College and Hospital, Patna, 800007, Bihar,Email Id.-
8. The Professor and Head of Department of Microbiology, Nalanda Medical College and Hospital, Patna, 800007, Email Id-

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dinkar Kumar, Advocate
For Stat Health Society	:	Dr.Anand Kumar, Advocate
		Ms. Kamyia Thakur, Advocate
For the Respondent/s	:	Mr.Rahul Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR
ORAL JUDGMENT

Date : 12-10-2026

Heard learned counsel for the petitioner and the
learned counsel for the State.

2. The petitioner seeks the following reliefs:

“i. For issuance of direction upon the respondent



authorities, specifically to Respondent Nos. 3, 4, 6 and 7 to make Ex-Gratia-Payment by virtue of State Notification PR-12170 (Disaster) 2021-22 (issued by the Respondent No.3); Memo No. 924 dated 24.05.2021 (issued by the Respondent No.6) and Centre Government Guidelines for Ex Gratia compensation and Assistance to next of kin of the Deceased by Covid-19, issued in compliance to the Honorable Supreme Court Order dated 30.06.2021 in WP(Civil) No. 539 and WP(Civil) 554 of 2021 (Annexure P/1, Series) against unfortunate death of the Husband of the Petitioner due to Covid-19 infection, during outbreak of 2nd graver wave of pandemic, Covid-19.

ii. For direction issued to the Respondent No.4, to reconsideration of the name of the Deceased Husband of the petitioner (Late Ram Bhajan Choudhary) for Ex-Gratia-Payment above mentioned (Sl. No. in the Line List of Three Members Committee of the District / Serial No. 375), by which the Not-Approved List, notified vide memo No. 6568 dated 03.02.2023 (Annexure P/3, Series) notified by Respondent No.4 And to delist the name of late husband of the Petitioner from Not-Approved List, by which the State Level Three-Member-Committee have vehemently and Mechanically rejected the



claim of the Petitioner with perfunctory reason thereof in the said impugned list as “Lab report as after date of death” and quoted, Incorrect-noted-details with regards to name, date of death and date of testing etc.

iii. For grant of any other relief / reliefs for which the petitioner is entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the petitioner’s husband, Ram Bhajan Choudhary, died on 05.01.2022 in the emergency ward of Nalanda Medical College and Hospital (NMCH), Patna, during the second wave of the Covid-19 pandemic. It is submitted that he was examined by the doctor on duty on 05.01.2022 at 5:36 p.m., on a complaint of fever, cough and weakness for five days, as recorded on the Emergency Outdoor Registration Slip No. 99822140000471, and that the doctor advised an RT-PCR test before admission. After the throat swab was taken, the doctor wrote RT-57779 on the slip as the reference number. The patient’s condition deteriorated quickly and he died at about 6:20 p.m. in the emergency ward.

4. Learned counsel for the petitioner also submits



that the petitioner applied for ex gratia payment to the district office on 07.03.2022 with the seven stipulated documents (death certificate, Covid-19 positive report, family tree, bank details, Aadhaar cards of the deceased and the petitioner, and medical reports), but the application was dealt with mechanically. The claim was then included in the Not Approved List notified by Memo No. 6568 dated 03.02.2023, on the ground that the lab report was dated after the date of death.

5. Learned counsel for petitioner further submits that the NMCH's own record shows the sample ID as 57779, the sample collection date as 06.01.2022, the testing date as 06.01.2022 and the RT-PCR result as positive with CT value 21.3, as stated in Letter No. 62/Micro dated 08.02.2024 of the Department of Microbiology, NMCH. The petitioner says that the date of the sample is a clerical or data-entry error by the staff of the hospital, who uploaded the details, and not by the petitioner or her relatives, and that an error of the hospital cannot defeat the claim of a Covid-19 death victim's family. The rejection is therefore said to be mechanical, arbitrary and violative of Article 14.

6. Learned counsel for the petitioner finally submits that the petitioner and her son, Avinash Kumar, have



approached the district, appellate and second appellate public grievance authorities and made several applications and e-mails (Complaint Nos. 999880131082361872 dated 31.08.2023, 999880131082361872/1A dated 17.12.2023, 999880131082361872/2A dated 07.01.2024, 9999901141123426323 dated 14.11.2023, 9999901100324454317 dated 10.03.2024 and 999957907062421128 dated 07.06.2024, and e-mails of February, May and August 2024), but the denial has only been repeated. The petitioner is stated to have serious health problems and to be living with a single kidney, and has no other efficacious remedy. It is also submitted that the State of Bihar has paid Rs. 4 lakh to the kin of each Covid-19 death.

7. Learned counsel for the State/Respondent No. 6 submits, on the counter affidavit of the Civil Surgeon, that the petitioner's husband died on 05.01.2022 in the emergency ward of NMCH, and that his sample was collected for RT-PCR on 06.01.2022 and tested on the same day, with a positive result of CT 21.3, as shown in Memo No. 62/Micro dated 08.02.2024 (Annexure R-6/A). The case was forwarded by the Civil Surgeon-cum-Chief Medical Officer, Patna, to the Executive Director, State Health Society, by Memo No. 16608 dated



30.11.2022 (Annexure R-6/B).

8. Learned counsel for the State also submits that the Three-Member Committee of the State Health Society, in its meeting on 25.01.2023, decided that, since the lab report is dated 06.01.2022 and the death was on 05.01.2022, the report being after the death, the claim for Covid compensation was to be rejected (Serial No. 33 of the minutes). This was communicated by the Executive Director, State Health Society, by Memo No. SHSB/GA/IDSP/4668/2020/6568 dated 03.02.2023 (Annexure R-6/C). It is submitted that, by Memo No. 5705 dated 29.01.2024 (Annexure R-6/D), the lab report was again sent to the Civil Surgeon, showing that the dates of sample collection and receipt vary, and that the Civil Surgeon sought clarification from the Superintendent, NMCH, by Memo No. 325/DHS dated 20.02.2024. The NMCH's report dated 07.02.2024, on matching with the RT-PCR register, found that sample ID 57779, Ram Bhajan Choudhary, 68 years, with positive result CT 21.3, was correct, but that the sample receiving date is recorded as 06.01.2022.

9. Learned counsel for the State further submits that, by Memo No. 8354 dated 21.09.2024 and the Superintendent's Memo No. 3919 dated 26.09.2024, the date of



sample collection and the date of testing were again shown as 06.01.2022, whereas the death occurred on 05.01.2022, so that the claim was rejected after due consideration. It is submitted that disputed questions of fact are involved which cannot be adjudicated under Article 226 of the Constitution, and that the writ petition is fit to be dismissed.

10. The Hon'ble Supreme Court in ***Gaurav Kumar Bansal v. Union of India & Anr.*** (M.A. No. 1120 of 2021 in W.P.(C) No. 539 of 2021), while giving effect to the guidelines dated 03.09.2021 and 11.09.2021 issued respectively by the Ministry of Health & Family Welfare/ICMR and the National Disaster Management Authority, laid down the eligibility criteria for treating a death as one caused by Covid-19 for the purpose of ex-gratia assistance under Section 12(iii) of the Disaster Management Act, 2005. On a conjoint reading of paragraphs 11(i) to 11(ix) of the said order, a case qualifies as a Covid-19 death where any one of the following conditions is satisfied: (i) the deceased was diagnosed Covid-19 positive through an RT-PCR/Molecular Test/RAT, or was clinically determined to be a Covid-19 case through investigation by a treating physician while admitted in a hospital/in-patient facility; (ii) death occurred within thirty days of such positive



test or clinical determination, irrespective of whether death took place inside or outside the hospital; (iii) the deceased, having been admitted as a Covid-19 case, continued in the same admission beyond thirty days and died subsequently; (iv) a Medical Certificate of Cause of Death (MCCD) in Form 4/4A has been issued under Section 10 of the Registration of Birth and Death Act, 1969, treating the death as Covid-19 related; and (v) the deceased died by suicide within thirty days of being diagnosed Covid-19 positive.

11. In the present case, it is not in dispute that the petitioner's husband, Late Ram Bhajan Choudhary, was examined in the Emergency Ward of Nalanda Medical College and Hospital (NMCH), Patna, on 05.01.2022 on the complaint of fever, cough and weakness for five days, was advised an RT-PCR test, and died the same evening at about 06:20 p.m.; that, as pleaded, the sample reference "RT-57779" was written on the Emergency Outdoor Registration Slip before his death; that the Department of Microbiology, NMCH, on matching its RT-PCR register, has itself confirmed that Sample ID 57779 in the name of Ram Bhajan Choudhary, aged 68 years, is positive with a CT value of 21.3, vide its letter No. 62/Micro dated 08.02.2024; and that the only variance is in the date of sample collection and



receipt, which is entered in the hospital record as 06.01.2022. The claim of the petitioner was, however, rejected by the Three-Member Committee, in its meeting dated 25.01.2023, solely on the ground that the lab report was dated after the date of death, without reference to the registration slip, the confirmation of the positive result by the hospital itself, or the criteria laid down by the Hon'ble Supreme Court.

12. This Court finds that the rejection, being founded solely on the date variance in the hospital's record and without any of the eligibility criteria laid down by the Hon'ble Supreme Court in *Gaurav Kumar Bansal* (supra), which expressly include a case where the deceased was diagnosed Covid-19 positive through an RT-PCR test and a case where he was clinically determined to be a Covid-19 case by a treating physician while in hospital, having been considered by the State Health Society or its Three-Member Committee, is unsustainable. The insistence on the date of the lab entry, to the exclusion of the contemporaneous hospital record of the sample reference and of the hospital's own confirmation that the result is positive, runs contrary to the very criteria laid down by the Hon'ble Supreme Court for treating a death as a Covid-19 death.



13. It is important to reiterate that, in a welfare state, the government has a binding constitutional and statutory duty under Article 21 and the Disaster Management Act, 2005, to act as an active guardian of public welfare, ensuring just and proper relief and financial compensation to citizens who lost their family members during a national health crisis like Covid-19. The State authorities cannot reject a genuine claim of a Covid-19 death merely on the technicality of a variance in the date entered in a hospital's record, particularly where the hospital itself has confirmed that the sample of the deceased tested positive, and where the variance, if any, appears to be a clerical entry made by the hospital's staff and not by the petitioner. The Constitution does not conceive the State as a distant spectator to human suffering, but as an active guardian of welfare and dignity.

14. In view of the above, the decision of the Three-Member Committee of the State Health Society, taken in its meeting dated 25.01.2023 and communicated vide Memo No. SHSB/GA/IDSP/4668/2020/6568 dated 03.02.2023, rejecting the claim of the petitioner, is hereby quashed.

15. The authority concerned is hereby directed to reconsider the claim of the petitioner, in light of the Emergency



Outdoor Registration Slip dated 05.01.2022, the RT-PCR record and the letter dated 08.02.2024 of the Department of Microbiology, NMCH, and the eligibility criteria laid down in *Gaurav Kumar Bansal* (supra), within four weeks from the date of receipt or production of a certified copy of this order. Further, if on such consideration the petitioner is found eligible, the compensation of Rs. 4,00,000/- shall be paid to her under the applicable Covid-19 relief scheme, along with any consequential ex-gratia benefits, and the same shall be released to her within a period of four weeks thereafter.

16. Accordingly, with the aforesaid observations and directions, the present Writ petition is allowed.

(Alok Kumar, J)

Manish Kumar

AFR/NAFR	N A F R
CAV DATE	N.A.
Uploading Date	12.10.2026
Transmission Date	N.A.

