

ITEM NO.7 Court 12 (Video Conferencing) SECTION PIL-W
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 1805/2021 in W.P.(C) No. 539/2021

(Arising out of impugned final judgment and order dated 30-06-2021
in W.P.(C) No. No. 539/2021 passed by the Supreme Court Of India)

GAURAV KUMAR BANSAL

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(FOR ADMISSION.

IA No. 147377/2021 - APPLICATION FOR PERMISSION

IA No. 146330/2021 - CLARIFICATION/DIRECTION

IA No. 146331/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 146332/2021 - EXEMPTION FROM FILING O.T.)

Date : 19-01-2022 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Petitioner-in-person

Mr. Pranjal Kishore, Adv.
Mr. Aditya Jain-1, AOR

For Respondent(s)

Mr. Tushar Mehta, SG
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Ms. Aishwarya Bhati, ASG
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Mr. B. V. Balaram Das, AOR

Ms. Manisha Lavkumar, Sr. Adv.
Ms. Deepanwita Priyanka, AOR

Mr. R. Basant, Sr. Adv.
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Mr. Polanki Gowtham, Adv.
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Ms. Ragini Pandey Adv.

Mr. Arun R. Pednekar, Adv.
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Mr. Darpan KM., Adv.
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Mr. Rajat Jonathan Shaw, Adv.
Mr. D.K. Devesh, AOR

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Mr. Sandeep Sharma, Adv.

Mr. Rahul Chitnis, Adv
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv.

Mr. Siddhesh Kotwal, Adv
Ms. Ana Upadhyay, Adv
Ms. Manya Hasija, Adv
Ms. Pragya Barsaiyan, Adv
Mr. Akash Singh, Adv
Mr. Nirnimish Dube, AOR

Mr. Joby P. Varghese, AOR
Ms. Ranjeeta Rohatgi, AOR

Dr. Manish Singhvi, Sr. Adv.
Mr. Arpit Parkash, Adv.
Mr. Sandeep Kumar Jha, AOR

Mr. Ardhendumauli Kumar Prasad, AAG
Mr. Tanmaya Agarwal, AOR
Mr. Wrick Chatterjee, Adv.

Mr. Rahul Verma, AAG
Mr. Vishwa Pal Singh, AOR
Mr. Vikas Negi, Adv.

Mr. Rajendra Prasad, Adv.
Ms. Pallavi, Adv.
Mr. Dinesh Kumar Mudgal, Adv.
Mr. Arihant Mehta, Adv.
Mr. Vikas Gothwal, Adv.
Mr. Sanjiv Saraf, Adv.
Mr. Praphul Kumar Vohra, Adv.

Mr. Suhaan Mukerji, Adv.
Mr. Raghent Basant, Adv.
Mr. Vishal Prasad, Adv.
Mr. Nikhil Parikshith, Adv.
Mr. Abhishek Manchanda, Adv.
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Mr. Shubham Bhalla, AOR
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Mr. Deepak Samota, Adv.
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Ms. Pratishta Vij, Adv.
Mr. Akshay Shrivastava, Adv.

Mr. Nishe Rajan Shonker, AOR
Ms. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

Mr. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR
Ms. Anupama Ngangom, Adv.
Mr. Karun Sharma, Adv.

Mr. V.N. Raghupathy, AOR
Mr. Md. Apzal Ansari, Adv.

Mrs. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. State of Bihar:

We have gone through the affidavit filed by the State of Bihar.

Let the Chief Secretary remain present virtually at 2'0 Clock today.

2. State of Andhra Pradesh:

It is very unfortunate that, despite the earlier directions to pay the compensation to the kin/family member of the person who died due to Covid-19, and time and again directions are issued,

there is a total callousness and negligence on the part of the State of Andhra Pradesh in not making the payment timely.

Even according to the State of Andhra Pradesh, as against 14,471 deaths recorded, after the earlier order passed by this Court, approximately 36,205 claims forms are received. It is unfortunate that, even according to the counsel, approximately 31,000 applications are found to be in order, only 11,464 claimants are made the payment. It appears that the State is not at all serious on compliance of the orders passed by this Court and the directions issued from time to time.

There is no justification shown whatsoever by the counsel not to make the payment to the claimants whose applications are already received and found to be in order. Not making the payment of compensation to the eligible claimants would tantamount to disobedience of our earlier order/directions for which the Chief Secretary is liable for action under the Contempt of Courts Act.

Let the Chief Secretary remain present virtually at 2'0 Clock today and is directed to show cause why the contempt proceedings may not be initiated against him for non-compliance of our earlier directions in not making the payment of compensation to the claimants whose applications are already found to be in order.

3.State of Kerala:

Insofar as the State of Kerala is concerned, against the registered deaths of 49,300, the State has received 27,274 claims, out of which 23,652 claims are sanctioned and paid. As ordered earlier, when the particulars of the deaths registered are already with the State Government, the Officers/administration must reach

to those families whose particulars are already with the State Government and make the payment.

Mr. Nishe Rajan Shonker, learned counsel appearing on behalf of the State of Kerala has submitted at the Bar that necessary instructions shall be issued and he will see to it that at least with respect to those deaths already registered with the State Government, the particulars of which are already with the State Government, the payment of compensation shall be made within a period of one week from today and, if required, the administration shall reach to those persons.

4.State of Maharashtra:

Mr. Rahul Chitnis, learned counsel appearing for the State of Maharashtra has stated at the Bar that, out of the total 1,41,885 deaths registered against which the State has received 2,17,151 claims. It is reported that out of the applications received, 1,02,772 claims are approved and the payments have been made. It is reported that further 49,113 claims have been rejected on various grounds. He has stated at the Bar that with respect to the remaining applications/claims received, the same are under process and the actual payments shall be made within a period of one week from today.

On the next date of hearing, learned counsel appearing for the State to place on record a tabular chart showing the reasons for rejection of the claims and whether all the claimants whose claims forms have been rejected are informed and/or give an opportunity to take corrective measures or not.

5.State of Gujarat

So far as the State of Gujarat is concerned, Ms. Manisha Lavkumar, learned Senior Advocate appearing on behalf of the State has filed a note on behalf of the State of Gujarat. It is submitted that an exclusive mobile friendly online portal has already been set up by the State of Gujarat, which remains operative since 03.12.2021 to facilitate the heirs of the persons who have passed away due to Covid-19 to upload applications for ex-gratia payments as directed by this Court. It is submitted that over and above the offline applications, the District Collector officers and Taluka Mamlatdar officers are also accepting online requests from legal heirs of the victims who have lost their lives in the pandemic.

It is reported that as on date against 10094 total deaths recorded/registered after the orders passed by this Court and after wide publicity made by the administration to reach to the eligible claimants, the State has been able to reach and received a total of 91,810 applications, of which, 71,359 applications are already sanctioned and 5169 applications are rejected by the authorities. It is submitted that out of the total sanctioned applications, payments have been made in case of 59,895 applications through Direct Benefit Transfer, whereas payment in 11,464 applications through Direct Benefit Transfer is pending. It is assured that payment to those claimants shall be made by 21.01.2022.

It is further submitted that the applications that are rejected by the authorities are on account of various reasons and in all the cases in which the applications are rejected, the

concerned applicants are informed via SMS/email that their ex-gratia payment application is rejected for the reasons stated therein and that they may approach the Grievance Redressal Committee for further action. It is reported that out of the total rejected applications, 613 applicants have approached the Grievance Redressal Committee and the said Committee shall now decide the applications considering the existing norms.

6. Pursuant to our earlier order passed today in the pre-lunch session, the Chief Secretaries of the State of Andhra Pradesh and the State of Bihar have remained present through virtual mode in the post-lunch session.

Shri R. Basant, learned Senior Advocate has appeared on behalf of the State of Andhra Pradesh. He has submitted that the State is committed to abide by the orders/directions issued by this Court and to pay compensation to the eligible claimants. It is submitted that in the morning for lack of further information to the Advocate who appeared on behalf of the State, he could not point out the correct facts and figures. It is reported that by now the State has received 41,292 claims, out of which 34,819 are found to be eligible and approximately 6,400 applications are rejected. It is reported that out of the eligible Claimants, 23,835 have received the payment of compensation and 10,984 Claimants are now to be paid, out of which 5,141 claims are cleared and the actual payment shall be made within a period of three days from today. He has also stated at the Bar that so far as the 6,400 claims which are rejected, instructions shall be issued that the concerned Grievance

Redressal Committee/Committees shall *suo motu* review all those cases and if it is found that those cases are rejected on technical grounds, such as, due to insufficient information/documents and/or their bank accounts are not activated, the State shall reach to all those Claimants and give them an opportunity to remove the defects so that actual payment can be made.

The Chief Secretary of the State of Andhra Pradesh has assured the Court that the State shall ensure that not a single Claimant who is eligible to receive the compensation shall be deprived of the compensation and all efforts will be made by the State to reach to them and the compensation is paid. We hope and trust that the Chief Secretary shall abide by the above and stand by what he has assured before the Court. The Chief Secretary of the State has tendered an apology and has stated that there was no intention at all on the part of the State not to comply with the directions issued by this Court and not to pay the compensation to the eligible claimants. He has assured the Court that in future the administration shall be more vigilant.

7.State of Bihar

Insofar as the State of Bihar is concerned, it appears that out of approximately 13,250 number of deaths recorded/registered, the State has received 11,095 claims. Compared to the other States the applications/claims received by the State can be said to be on the lower side. It may be because either the State has not been able to reach to them or the concerned persons - kin and family members of the persons who died due to Covid-19 are not aware that they are entitled to receive the ex-gratia compensation.

Looking to the peculiarity of the State, more extra efforts are required be made by the State of Bihar to reach to the eligible persons/kin/family member(s) of the persons who died due to Covid-19. Learned counsel appearing on behalf of the State has assured the Court on behalf of the Chief Secretary as well as on behalf of the State to make some further extra efforts to reach to the eligible claimants.

8. Shri Gaurav Kumar Bansal and Shri Sumeer Sodhi, learned Advocate(s) have shown the concern about the payment of compensation to the children who have lost their both the parents. It is reported that in the entire country and as per the information uploaded on Bal Swaraj Portal, uploaded by the concerned States, approximately 10,000 children have lost their both the parents. Therefore, it will be very difficult for them to make an application/submit the claim for compensation.

We direct the concerned States to reach to those children who have lost both their parents/surviving parents and whose particulars are already available/uploaded on the Bal Swaraj Portal so that the amount of compensation can be paid to them.

9. We also direct the concerned States to share the full information/particulars with regard to the number of deaths recorded by the concerned States as per the information uploaded on Bal Swaraj Portal to the concerned State Legal Services Authorities.

10. We also direct the concerned States to cross-check/verify whether with respect to all the deaths recorded/registered, the claims are received or not and if it is found that with respect to

some of the deaths recorded/registered, still the claims/applications for payment of compensation are not received, as observed hereinabove, the States must reach to them as the relevant particulars/information must be available with the States.

11. We also direct all the States to furnish full particulars/information to the concerned State Legal Services Authorities with respect to deaths recorded/registered and also the particulars whether the payment of compensation with respect to those deaths have been made or not. The aforesaid exercise shall be completed by the concerned States, within a period of ten days from today. If it is found by the Member Secretary of the concerned State Legal Services Authority that with respect to deaths recorded, the claims are not received and/or the amount of compensation is not paid, in that case, the concerned State Legal Services Authority through the concerned District Legal Services Authority and/or Taluka Legal Services Authority, as the case may be, shall reach to the concerned persons so that claims are submitted and actual payments are made to them. For that, the Member Secretary of the State Legal Services Authority shall act as an Ombudsman and as Facilitator.

12. From the chart which is produced by Ms. Aishwarya Bhati, learned ASG, it appears that in many of the States number of claims are rejected. For example - so far as the State of Gujarat is concerned, 4,234 claims are rejected; so far as the State of Maharashtra is concerned, 49,113 claims are rejected; so far as the State of Tamil Nadu is concerned, 10,138 claims are rejected; so far as the State of Telangana is concerned, 1,459 claims are

rejected. The reasons for such rejection may be due to incomplete form and/or incomplete particulars and/or incomplete information etc.

We direct all the concerned States that wherever the claims are rejected, the reasons for rejection must be communicated to the concerned Claimants and they may be given an opportunity to rectify their claim applications. We also observe that no claim shall be rejected on technical grounds and if there is any defect in the claim application, an opportunity should be given to the concerned Claimant to rectify the mistake so that the concerned person may be paid the compensation. Such particulars of rejection shall be sent to the concerned applicants as well as the concerned Grievance Redressal Committee (constituted pursuant to the earlier order passed by this Court), within a period of one week from today.

List for further consideration on 04.02.2022.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER