

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P. (PIL) No. 1961 of 2021**

Sitwanto Devi Mahila Kalyan Sansthan, officiating at Surajpath Baridih Basti, P.O., P.S.-Baridih, District-East Singhbhum, Jamshedpur, through its Secretary Sri Madan Mohan Singh, aged about 55 years, S/o Tejnarayan Singh, R/o Prabhu Dwar, Nirala Path, Baridih Basti, P.O-Baridih, P.S-Sidgora, Jamshedpur, District- East Singhbhum. .... Petitioner

**Versus**

1.The State of Jharkhand through the Chief Secretary, Government of Jharkhand having its office at Project Bhawan, P.O., P.S. Dhurwa & District-Ranchi.

2.The Health Secretary, Government of Jharkhand having its office at Project Bhawan, P.O., P.S. Dhurwa & District-Ranchi.

3. The Principal Secretary, Department of Home, Prison and Disaster Management having its office at Project Bhawan, P.O., P.S. Dhurwa & District-Ranchi.

4. The Deputy Commissioner, Jamshedpur, in his capacity as head of the District and in representative capacity for other Districts of Jharkhand, P.O., P.S-Jamshedpur, District-East Singhbhum.

5.The Deputy Commissioner, Ranchi, P.O., P.S. & District-Ranchi.

6.Deputy Commissioner, Dhanbad, P.O., P.S. & District-Dhanbad.

7.TATA Main Hospital, through its General Manager, officiating at C-Road, West Northern Town, Bishtupur, P.O., P.S-Bishtupur, Jamshedpur.

..... Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

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 For the Petitioner : Ms. Aprajita Bhardwaj, Advocate  
 For the Respondent-State : Mr. Ashutosh Anand, A.A.G.III  
 For the Respondent No.7 : Mr. Amit Kumar Das, Advocate

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**Oral Judgment:**  
**Order No.3/Dated: 17<sup>th</sup> June, 2021**

1. With consent of the parties, hearing of the matter has been done through video conferencing and there is no complaint whatsoever regarding audio and visual quality.

2. The defects, as pointed out by the office, are hereby ignored.
3. The instant writ petition has been filed under Article 226 of the Constitution of India, however, public interest litigation, praying *inter alia* for the following reliefs:

“a. For showing cause the Respondents in general and the Respondent no.4 to 7 in particular as to why the Guidelines issued by the Government of India, Ministry of Health and Family Welfare, Directorate General of Health Services being - **“COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT,”** is being flouted and not being complied with strictly leading to disrespect to the dead bodies of the COVID-19 affected persons and upon considering the replies of the respondents may be pleased to pass necessary directions for paying due respect to the COVID-19 deceased as well as their wards strictly as per the said guidelines and in conformity with Article 21 of the Constitution of India.

b. For a direction upon the Respondents for allowing the family members of the COVID-19 deceased, who are willing to claim the bodies, to perform the last customary rites of the departed soul as per their tradition and custom, with due safety, complying with the restrictions imposed by the government in order to give due respect to the departed soul one last time, as the same very much falls within the constitutional obligations enshrined under Articles 21 and 25 of the Constitution which aspect has in fact been properly

taken care of under “**COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT,**” above referred but is being unfortunately not complied and is being rather flouted.

c. For direction upon the respondents to issue guidelines and Standard Operating Procedure in respect to the disposal of dead body of COVID-19 positive person by the immediate next of kin of the deceased who are willing to claim the bodies to perform the last rites as well as guidelines for funeral and burial as has been done in other States in order to respect and protect the dignity of the dead, their cultural, religious traditions and customs.”

4. Ms. Aprajita Bhardwaj, learned counsel appearing for the writ petitioner has submitted that the State Government is not following the guideline issued by the Government of India as also the State Government which has been notified for the people in general pertaining to Covid-19 Guidelines on Dead Body Management dated 15.03.2020 wherein the State Government has taken decision for handing over the dead body of the person died due to Covid-19 to their kith and kin or relatives in order to pay due respect to their relatives as per their religious traditions.

5. The respondent-State of Jharkhand has filed counter affidavit in pursuant to the order dated 03.06.2021 stating *inter alia* therein that the grievance raised by the writ petitioner is partially true. Further it has been stated that Covid-19 patients were handed over to the local administration by the hospitals and family members were not allowed to dispose of the dead body by themselves.

6. Learned counsel for the writ petitioner has submitted that the grievance raised by the writ petitioner has been admitted by the answering respondents and drawing the attention towards Annexure-E appended to the counter affidavit filed on behalf of the respondent no.6-Deputy Commissioner, Dhanbad dated 04.08.2020, it has been decided that the persons who have died due to Covid-19, their dead body will be handed over to their kith and kin after standard operating Protocol and if the kith and kin will not offer themselves to accept the dead body for the last rites for 24 hours then the dead body will be disposed at the level of the local administration. According to the learned counsel for the petitioner since the Government has formulated a guideline dated 04.08.2020 it has to be followed in its letter and spirit but having not done so the writ petitioner is entitled to the relief sought for in this writ petition.

7. We have heard learned counsel for the parties, perused the documents on record and after considering the prayer made in this writ petition which is for issuance of appropriate direction to follow the guideline dated 04.08.2020 annexed as Annexure-E to the counter affidavit filed on behalf of the respondent nos.1 and 6 dated 16.06.2021 whereby and whereunder it has been decided to hand over the dead body of the persons died due to Covid-19 infections to their kith and kin after following the standard operating protocol for his last rites and after 24 hours if nobody is turning up from the family members of the deceased, the dead body is decided to be disposed of by the local administration.

This Court has considered the counter affidavit filed on behalf of the respondent nos.1 and 4 dated 16.06.2021 wherein at paragraph 18 it has been

stated that the contention raised by the writ petitioner is partially true. For ready reference, paragraph-18 of the counter affidavit is quoted herein:

*“18. That with regard to the statement made by the petitioner in paragraph 11 of the writ application under reply, it is humbly stated and submitted that it is partially true. It is true that the COVID-19 patients were handed over to the local administration by the hospitals. Family members were not allowed to dispose of the dead body by themselves. They were permitted to perform the religious rituals and last rites according to the Covid-19 Guidelines on Dead Body Management. There are two burning ghats in Jamshedpur and only one was being used for disposing the COVID-19 dead bodies for the Hindus, as in the initial phase of COVID-19, law and order issue had emerged in one of the burning ghats.”*

8. We, after taking into consideration the aforesaid stand taken by the respondent no.4 in the counter affidavit dated 16.06.2021 as quoted hereinabove, are of the view that when the Government has formulated a guideline, it has to be followed in its letter and spirit.

9. In view thereof, taking into consideration the stand taken by the respondent nos.1 and 4 at paragraph 18 of the counter affidavit dated 16.06.2021 as also the guideline dated 04.08.2020, it will be suffice that the writ petition is disposed of directing the respondent concerned to follow the decision taken by the State Government dated 04.08.2020 for disposal of the dead bodies who die due to Covid-19 infection as contained in paragraph 1

and 2 thereof. However, this Court is passing a direction for following the guideline dated 04.08.2020 for disposal of the dead body, but that does not preclude the State Government to come out with fresh decision in order to avoid the spread of infection in course of disposal of the dead body.

10. This writ petition is, accordingly disposed of, with the aforesaid observation and direction.

**(Dr. Ravi Ranjan, C.J.)**

**(Sujit Narayan Prasad, J.)**

Saket/-

**N.A.F.R.**