

ITEM NO.42 Court 13 (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 : 06-12-2021 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Petitioner-in-person

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

For Respondent(s) Mr. Tushar Mehta, SG
Mr. K.M.Nataraj, ASG
Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Mr. Amit Sharma, Adv.
Mr. Sughosh Subramanyam, Adv.
Mr. Arvind Kr. Sharma, AOR
Mr. G.S. Makker, AOR
Mr. B. V. Balaram Das, AOR

Mr. Tushar Mehta, SG
Ms. Manisha Lavkumar, Sr. Adv.
Ms. Deepanwita Priyanka, AOR

Mr. Abhinav Mukerji, AOR
Mrs. Bihi Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay C. Shrivastava, Adv.

Mr. Avijit Mani Tripathi, AOR
Mr. S. Udaya Kumar Sagar, AOR
Mr. P. Mohith Rao, Adv.

Mr. Anil Grover, Sr. AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Sanjay Kumar Visen, AOR
Mr. Bhanwar Jadon Adv.
Ms. Babita Mishra, Adv.

Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. K.V. Girish Chowdary, Adv.

Mr. Shubham Bhalla, AOR
Mr. Yajur Bhalla, Adv.
Mr. Deepak Samota, Adv.
Mr. Siddharth Srivastava, Adv.
Mr. Sumeir Ahuja, Adv.
Mr. Siddharth Sandhu Adv.

Mr. Surjendu Sankar Das, AOR
Ms. Sakshi Tibrewal, Adv.

Mr. Suhaan Mukerji, Adv.
Mr. Vishal Prasad, Adv.
Mr. Nikhil Parikshith, Adv.
Mr. Abhishek Manchanda, Adv.
Mr. Sayandeep Paharii, A
for M/s. PLR Chambers And Co., AOR

Mr. Arun R. Pednekar, Adv.
Ms. Mukti Chowdhary, AOR

Ms. Ranjeeta Rohatgi, AOR

Mr. G.M. Kawoosa, Adv.
Ms. Taruna Ardhendumauli Prasad, AOR

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

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

Mr. Sumeer Sodhi, AOR

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

Mr. Senthil Elangovan, Adv.
Mr. S. Krishnamoorthy, Adv.
Mr. Kumara Vadivel, Adv.

Ms. Diksha Rai, AOR
Ms. Palak Mahajan, Adv.

Mr. Joby P. Varghese, AOR

Ms. Kiran Bala Dewangan, Adv.
Mr. Jhingan Ashwani Omprakash, Adv.
Mr. Dinesh Kumar Mudgal, Adv.
Mr. Brijender Singh Dhull, Adv.
Mr. Vishwa Pal Singh, AOR

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. Amit Anand Tiwari, AAG
Mr. D. Kumanan, AOR

Mr. Saurabh Mishra AAG
Mr. Manoj Kumar, Adv.
Mr. Sunny Choudhary, AOR

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

State of Maharashtra

We have gone through the compliance report submitted by some of the States - State of Maharashtra, State of West Bengal, State of Rajasthan, State of U.P. and State of Gujarat. We are not at all satisfied with the compliance report filed on behalf of respective States - Maharashtra, Rajasthan, West Bengal and U.P. This Court passed a detailed judgment and order on dated 04.10.2021 directing all the States to pay the ex-gratia compensation to the kin/family members of the person who died due to COVID-19. A number of directions have been issued, still in most of the States the amount of compensation is not paid. We are at pain to note

that the process of payment of compensation is at snail speed. The Government/Government authorities must show sensitiveness to the persons who have already suffered loss of their family members died due to COVID-19.

In the compliance report/affidavit on behalf of the State of Maharashtra it is reported that 1,45,025 deaths were recorded as on 02.12.2021 in the State and 12,000 claim forms were received as on 03.12.2021 on the online portal. It is reported that thereafter the number of applications have been increased to 37,000. Nothing is on record to show what actual steps were taken before the online portal was created to invite the applications and to pay the compensation.

Shri Sachin Patil, learned counsel appearing for the State of Maharashtra, has stated at the Bar that the actual payment of compensation will start from 15.12.2021 and the same shall be paid within a period of 30 days from the date of receipt of the application. Our order to pay the compensation was passed as far as back on 04.10.2021. It appears that no portal was created till this Court issued the notice in the present proceedings. Even inviting further declaration from the claimant that there were no other kin, who is claiming compensation is also unwarranted. Once the applications are received on the online portal and other relevant documents as per our earlier judgment and order dated 04.10.2021 are already produced, there is no question of further waiting even for a period of 30 days. That 30 days' time is the maximum time which we have provided in our earlier order dated 04.10.2021. That does not mean that Government should wait till

the 30th day. Even the format in which the application is to be made in the State of Maharashtra is also not placed on record.

From the aforesaid, it appears that as on today not a single person is paid the compensation in the State of Maharashtra, which shows a very sorry state of affairs and shows insensitiveness on the part of the State and the Government authorities in the State.

Put up on 10.12.2021 so as to enable the State of Maharashtra to file a better compliance report on affidavit giving all the details including the format in which the application is to be made etc. A detailed compliance report of our earlier judgment and order dated 04.10.2021 to be filed. The State must start making the payment of compensation immediately with respect to those deaths registered with the Government and also with respect to the applications which are found to be in order and in compliance with our earlier judgment and order dated 04.10.2021 and shall not wait till the 30th day. So far as the deaths all have been registered with the Government, Government must reach to them as the particulars of death are already with the Government. Government must give wide publicity with respect to inviting the applications, making the application on online portal; the particulars with respect to the constitution of the Grievance Redressal Committee through social media, electronic media and print media.

State of West Bengal

Similar is the situation so far as the State of West Bengal is concerned. Despite the fact that approximately 19,000 deaths are registered in the State of West Bengal only 467 claim forms are received and approximately 100 claimants are paid the compensation.

Even there is no exclusive portal created by the State Government. When approximately 19,000 deaths were already registered with the State Government then on the basis of that registration itself the State Government ought to have made payment to at least those persons whose particulars are already with the State Government when the deaths were registered and, therefore, they were not required to wait even for the application to be filed. They ought to have paid the compensation to those persons whose names were already registered with them to the next of the kin. It also appears that no wide publicity is given in the social, print and electronic media by the State so that the concerned persons are made known that they are entitled to the scheme and they can apply in a particular format. So as to give one additional opportunity to the State of West Bengal to make the payment at least to the kin of those persons whose deaths have been registered that is approximately 19,000, put up on 10.12.2021.

In the meantime, the State Government must give wide publicity with respect to the applications to be invited, the prescribed format and the requirement for the purpose of making application, namely, RT-PCR positive and the death within a period of 30 days only and other things as per our earlier order dated 04.10.2021.

State of Rajasthan

So far as the State of Rajasthan is concerned, we are not at all satisfied with the compliance report filed on behalf of the State of Rajasthan. No particulars whatsoever are stated in the status report.

Dr. Manish Singhvi, learned senior counsel appearing on behalf

of the State is also not aware when the online portal is created for inviting the applications. It is reported that in State of Rajasthan, 8955 deaths were registered till 26.11.2021. It is also reported that these numbers are where confirmed RT-PCR test was positive for COVID-19. Therefore, at least with respect to those deaths the State ought to have paid the compensation which the State has failed. Learned senior counsel appearing on behalf of the State of Rajasthan has stated at the Bar that at least with respect to those 8955 deaths reported in the State and where the confirmed RT-PCR test was found to be positive for COVID-19, the ex-gratia payment of Rs.50,000/- shall be paid to the next kin/family members of the concerned person who has died due to COVID-19 on or before the next date of hearing.

For further compliance report put up on 10.12.2021.

State of U.P.

So far as the State of U.P. is concerned, it is reported that number of deaths recorded is 22,911 as on 03.12.2021. The online portal is created on 03.12.2021, i.e. after this Court issued the notice in the present matter. It is reported that as on today approximately 16,000 claims have been received physically and/or through online portal. It is reported that as on today 9372 claims are accepted and the payment is made. There is no reason for the State to wait with respect to at least those deaths registered with the State. Nothing is on record with respect to any wide publicity given. The State must give wide publicity through local channel, print media and electronic media.

Put up on 10.12.2021 so as to enable the State to make the ex-

gratia payment of Rs.50,000/- at least with respect to those deaths which were registered with the State Government.

State of Gujarat

Ms. Manisha Lavkumar, learned senior counsel appearing on behalf of the State of Gujarat has reported that now the exclusive online portal has been created and is in the public domain from 03.12.2021. It is reported approximately 12,718 applications are received, out of which 6515 claims are accepted and the payment is made. She has stated at the Bar that with respect to the rest of the applications the payment shall be made on or before the next date of hearing, i.e., 10.12.2021. State must give wide publicity with respect to online portal, the prescribed format the information with regard to the Grievance Redressal Committee in each districts, Municipal Corporation area and the information that for getting the ex-gratia compensation the only requirement is RT-PCR positive report and the death within 30 days and that cause of death mentioned in the death certificate shall not be the sole criteria.

The status report filed by the other States shall be considered on the next date of hearing. However, it is observed and directed that the respective States must make the payment to the kin/family members of the person who have died due to COVID-19 whose deaths are already registered with the concerned State Government and as observed hereinabove the State Authorities must reach them as the particulars are already with the State Government.

Put up on 10.12.2021.

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

(NEETU SACHDEVA)
COURT MASTER

(NISHA TRIPATHI)
BRANCH OFFICER