

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
ARAVIND KUMAR AND M.I.ARUN	WP 8619/2020	30/07/2020	<p>By our order dated 27.07.2020, we had observed that dead bodies of persons who have been tested positive for COVID-19 should be given a dignified burial or cremation depending upon the cultural and religious traditions of the dead person. We had further expressed our concern about what is mentioned in the death certificates in BBMP guidelines. In the written submissions filed by the learned Government Advocate, our attention had been drawn to Annexure-R51 and in particular to clause 15 whereunder, it has been stated that in case of death due to any other causes where COVID-19 is not confirmed or suspected, the expression “COVID-19” should not be mentioned either in the cause of death or death certificate for any reasons. It is further stated that cause of death in the “Death Certificate” would not be specified.</p> <p>2. At this juncture, Sri V.Sreenidhi, learned Advocate appearing for BBMP would fairly submit that BBMP guidelines would be modified in tune with the revised circular dated 29.07.2020 issued by the Commissionerate of Health and Family Welfare Services, Bengaluru.</p> <p>3. He would also fairly submit that on the death of a person either on account of COVID-19 or otherwise, cause of death as the case may be, would be specified in the certificate of death to be submitted by the next kith and kin to the cemetery/burial ground/cremation as the case may be and they in turn would furnish the receipt while submitting the application for issuance of “Death Certificate” under the Registration of Births and Deaths Act, 1969 based upon which the certificate of death would be issued by the Municipal Authority without specifying therein, the cause of death.</p> <p>4. Learned Additional Advocate General would draw our attention to the issue of treating dead</p>

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			<p>bodies and respecting cultural and religious traditions, wherein we had observed that dead bodies are to be given dignified burial or cremation depending upon religious and tradition of the dead person to contend that under clause 7 of the said circular the family of the dead who wish to view the body would be permitted subject to prescribed standard precautions being taken with further clear instructions to the family not to touch or kiss the body. However, we find that the said circular does not address the concern we had expressed with regard to burial or cremation depending upon the cultural and religious traditions of the dead person. We do hope that the State would come up with appropriate protocol by addressing the said issue.</p> <p>5. Sri N.P.Amruthesh, learned Advocate had brought to our notice the interim guidance issued by World Health Organization about the dead bodies of a person infected with COVID-19 would not be a potential source of spread of COVID-19. However, we expressed in our order dated 27.07.2020 that said issue is to be left to the experts to be decided, as this Court would not be in a position to sit in the arm chair of experts and decide such issues. It is in this background, revised circular dated 29.07.2020 – Annexure-R51 is said to have been issued which is enclosed along with the written submissions filed by the State Government, whereunder the State is said to have taken cognizance of the World Health Organization’s report for disposal/handling of dead body. Though, learned Additional Advocate General would submit that there is no definite conclusion arrived at by the experts that dead body of COVID-19 would not cause its spread, there is no material placed in this regard before us. He would further elaborate his submission, to contend that there is no conclusive proof of evidence available from the experts with regard to virus in the dead body, if any, would die on the death of such COVID-19 infected person and as such the procedure for disposal of the dead bodies of COVID-19 which have been adopted by other countries is also taken note of by the State while issuing revised circular and contends that further material in this regard would be placed before the Court. His submission is placed on record.</p> <p>6. On the previous date i.e., on 27.07.2020, we were performed to observe that there has been</p>

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			<p>failure to comply with the order of the Apex Court dated 19.06.2020 and the default committed by the State in this regard. The Apex Court had ordered that all the States should constitute an experts team of Doctors and other experts for the inspection, supervision and guidance of all Government hospitals and other hospitals dedicated to COVID-19. This was also observed by this Court in the order dated 16.07.2020. We had further observed that appointing the Committee at the State level, could have been replicated at district levels also. In conclusion, we had observed failure of the State to comply with the order of Hon'ble Apex Court by 29.07.2020, would be viewed very seriously.</p> <p>7. The State in its written submissions filed today, has placed on record a copy of the order dated 29.07.2020 – Annexure-R52 contending that Medical Experts Committee have been constituted in accordance with the direction of Apex Court at the State level as well as BBMP/district levels. The State, in order to overcome the probable proceedings which we would have initiated, have now come up with the aforesaid order (Annexure-R52), which can be said to be in partial compliance of the direction issued by the Apex Court. The direction to all the States by Apex Court was to constitute an expert Committee consisting of Doctors and other experts for the purposes of inspection, supervision and guidance of Government hospitals and other hospitals dedicated to COVID-19. However, State Level Committee which is now said to have been constituted after a lapse of 1½ months after the direction came to be issued by the Apex Court, does not indicate that at the State level experts from other fields having been inducted to the said Committee. In fact, Committee constituted at the BBMP level as well as District level also does not indicate the name of representative of NGO or eminent personality in the district, whose presence would have made value addition to the said Committee and we say so for the reason that, issues relating to the non availability of hospitals, beds in the hospitals, transportation of the persons tested positive for COVID-19 from their place of residence to the hospital, hygiene at the hospital, providing food to the COVID-19 patients at the hospitals, refusal of admission by private hospitals, are all issues which requires to be ascertained by experts in those fields and mere constitution of the doctors alone in the Committee would not suffice and it would not yield the requisite results or assuage the problems faced by the needy. The order (Annexure-R52) which has now been</p>

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			<p>passed by the State, would only indicate that State is attempting to shed crocodile tears. We do hope that State will wake up from its slumber and take immediate remedial and corrective steps to comply with the order passed by the Apex Court by implementing it in its letter and spirit, which would not only curtail the spread of COVID-19 but would also address all other issues arising out of said pandemic which is prevalent in the State and spreading with fast pace.</p> <p>8. We would also reiterate that failure to take such corrective steps will have to be not only viewed seriously, but steps may have to be taken for appointing an independent Committee as per the mandate of the order dated 19.06.2020 passed by the Apex Court. Further steps taken by the State shall be placed by the next date of hearing.</p> <p>9. Learned Additional Advocate General has drawn our attention to the order dated 27.07.2020 whereunder, compulsory updating of bed availability has been undertaken and being made available in Centralised Hospital Bed Management System (CHBMS) of BBMP and Survana Arogya Suraksha Trust (SAST) to facilitate immediate allocation of beds to the needy patients. He would also submit that Government has constituted 7 teams consisting of a Senior IAS officer and a Senior IPS officer in each team, to monitor the activities in private hospitals assigned to them round the clock to ensure 50% of the beds to COVID/COVID suspect patients under Government quota is available and said teams being in regular touch with CHBMS. He also submits that said teams are also vested with powers to initiate action against hospital under the provision of Disaster Management Act in case of non-compliance.</p> <p>For want of time, other issues arising in this writ petition would be taken up on the next date of hearing. Registry is directed to list these petitions on 04.08.2020 @ 2.30 p.m.</p>

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