IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
MISCELLANEOUS APPLICATION NO.1120/2021
IN
W.P.(C) NO.539 OF 2021

IN THE MATTER OF:

GAURAV KUMAR BANSAL … PETITIONER

VERSUS

UNION OF INDIA & ORS. … RESPONDENTS

ADDITIONAL AFFIDAVIT DATED 22.09.2021 ON BEHALF OF THE UNION OF INDIA

PAPER-BOOK

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ADVOCATE FOR THE UNION OF INDIA: BV BALARAM DAS

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I, Govind Mohan s/o Late Shri Prem Mohan, aged about 55 years, working as Additional Secretary, in the Ministry of Home Affairs, the deponent herein, do hereby solemnly affirm and state on oath as under:-

1. That I am working as an Additional Secretary in the Ministry of Home Affairs, Government of India. I state that, I am filing the present affidavit in furtherance to the Compliance Affidavit dated 08.09.2021 filed on behalf of the Union of India ("**Compliance Affidavit**"). I state that, I'm well versed with the facts of the present case and am authorized to file the present affidavit on behalf of the Union of India.

2. It is respectfully submitted that, the Hon'ble Supreme Court in its judgment dated 30.06.2021 in *Gaurav Kumar Bansal v.*

Union of India and others, W.P.(C) No. 539 of 2021 and *Reepak Kansal v. Union of India and others, W.P.(C) No. 554 of 2021* had issued the following directions:

> *"16. In view of the above and for the reasons stated above, we dispose of the present writ petitions with the following directions:*
>
> *1) We direct the National Disaster Management Authority to recommend guidelines for ex gratia assistance on account of loss of life to the family members of the persons who died due to Covid-19, as mandated under Section 12(iii) of DMA 2005 for the minimum standards of relief to be provided to the persons affected by disaster – Covid 19 Pandemic, over and above the guidelines already recommended for the minimum standards of relief to be provided to persons affected by Covid-19. However, what reasonable amount to be offered towards ex gratia assistance is left to the wisdom of National Authority which may consider determining the amount taking into consideration the observations made hereinabove, such as, requirement/availability of the fund under the NDRF/SDRF for other reliefs and the priorities determined by the National Authority/Union Government and the fund required for other minimum standards of relief and fund required for prevention, preparedness, mitigation and recovery and other reliefs to carry out the obligation under DMA 2005. The aforesaid exercise and appropriate guidelines be recommended, as directed hereinabove, within a period of six weeks from today;*
>
> *2) The Appropriate Authority is directed to issue simplified guidelines for issuance of Death Certificates/official document stating the exact cause of death, i.e., "Death due to Covid-19", to the family members of the deceased who died due to Covid-19. While issuing such guidelines, the observations made hereinabove in paragraph 13 be borne in mind. Such guidelines may also provide the*

remedy to the family members of the deceased who died due to Covid-19 for correction of the death certificate/official document issued by the appropriate authority, if they are not satisfied with the cause of death mentioned in the death certificate/official document issued by the appropriate authority; and

3) The Union of India to take appropriate steps on the recommendations made by the Finance Commission in its XVth Finance Commission Report bearing in mind paragraph 8.131 in consultation with other stakeholders and experts."

3. It is respectfully submitted that *vide* its Compliance Affidavit dated 08.09.2021, the Union of India has duly complied with the **2nd direction** i.e. with regard to issuance of an official document/death certificate.

4. Furthermore, with regard to the **3rd direction**, the National Disaster Management Authority ("**NDMA**") has already started discussions/consultations on the recommendation of the XVth Finance Commission regarding insurance interventions. Further studies are to be undertaken for laying groundwork for these suggested insurance interventions. It is important that these insurance mechanisms are thoroughly studied, analysed and introduced with due diligence in partnership with insurance companies and hence it is a time taking process.

5. It is respectfully submitted that, *vide* its **1st direction**, the Hon'ble Supreme court had directed the NDMA to recommend guidelines for *ex-gratia* assistance on account of loss of life, to the family members of the persons who died due to COVID-19, as mandated under Section 12(iii) of the Disaster Management Act, 2005 ("**DM Act**") for the minimum standards of relief to be provided to the persons affected by disaster. In this regard, it is humbly submitted that, in respectful compliance of the directions of the Hon'ble Supreme Court, the NDMA has prepared guidelines for *ex-gratia* assistance to next of kin of the deceased due to COVID-19, under Section 12(iii) of the DM Act.

A True copy of the guidelines for *ex-gratia* assistance to next of kin of the deceased due to COVID-19, under Section 12(iii) of the Disaster Management Act, 2005 is annexed herewith and marked as "**ANNEXURE R/5**" at pg. 6-8.

6. It is further stated that on 11.09.2021, the Office of the Registrar General of India ("**ORGI**") has issued a Corrigendum to ANNEXURE R/4 of the Compliance Affidavit dated 08.09.2021 filed by the Union of India. Wherein, the Guidelines issued by the Ministry of Health and Family Welfare ("**MoHFW**") in para 1 and 3 of the aforesaid circular may be read as dated "03.09.2021" in place of "30.08.2021".

A True copy of the Corrigendum dated 11.09.2021 issued by the Office of the Registrar General of India is annexed herewith and marked as "**ANNEXURE R/6**" at pg. 9.

7. The present Affidavit is *bona fide* and in the interest of justice.

ANNEXURE R/5

सत्यमेव जयते

Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
NDMA Bhawan, A-1, Safdarjung Enclave,
New Delhi-110 029
Phone: 011-26701707.

No. 16/11/20 21-RR **Dated, the 11th September, 2021**

To

Chief Secretary / Administrator of States / UTs
(As per list attached)

Subject : Guidelines for Ex-Gratia Assistance to next of kin of the Deceased by Covid-19-reg.

Sir / Madam,

In pursuance of Hon'ble Supreme Court Judgment dated 30.06.2021 in W.P.(C) No. 539/2021 and W.P. (C) No. 554/2021, National Disaster Management Authority prepared Guidelines for ex-gratia to next of kin of the Deceased by Covid-19 under section 12(iii) of the DM Act, 2005.

2. I am directed to forward herewith the above guidelines along with the "Guidelines for Official Document for COVID-19 Death" issued by Ministry of Health & Family Welfare for information and further necessary action at your end.

3. This issues with the approval of Competent Authority.

Yours faithfully,
11/09/2021
(Dr. S. K. Jena)
Joint Advisor (RR)

Encl : As above (9 Pages)

Copy for information to :

1. Sr. PPS to Home Secretary, MHA
2. Sr. PPS to Secretary, M/o Health & Family Welfare.
3. Sr. PPS to Member Secretary, NDMA
4. PS to RGI & CC, Office of Registrar General of India.

Government of India
National Disaster Management Authority

Guidelines for *Ex-Gratia* Assistance to next of kin of the Deceased by COVID-19

(Issued in compliance to the Hon'ble Supreme Court Order dated 30.06.2021 in WP (Civil) No. 539 and WP (Civil) 554 of 2021)

1. The Hon'ble Supreme Court through its order dated June 30, 2021 in WP (Civil) No. 539 and WP (Civil) 554 of 2021 has directed the National Disaster Management Authority (NDMA) to recommend guidelines for *ex-gratia* assistance on account of loss of life to the family members of the persons who died due to COVID-19, as mandated under Section 12(iii) of Disaster Management Act (DMA) 2005 for the minimum standards of relief to be provided to the persons affected by disaster.

2. The present guidelines are being issued in compliance with the above mentioned directions of the Hon'ble Supreme Court. These Guidelines should be read in conjunction with the "Guidelines for Official Document for COVID-19 Death" issued by Ministry of Health & Family Welfare (MoHFW) & Indian Council of Medical Research (ICMR) in compliance to the same order of the Hon'ble Supreme Court.

3. **Existing Norms:** The Existing Guidelines on Minimum Standards of Relief issued by NDMA in 2016, in accordance with Section 12(iii) of DMA 2005, in section 7 (e) stipulate that for *ex-gratia* assistance on account of loss of life, the norms provided by Government of India for Assistance from SDRF should be the minimum standard of relief. In this regard, the "Revised list of items & norms of assistance from State Disaster Response Fund (SDRF)/ National Disaster Response Fund (NDRF)" issued by the Ministry of Home Affairs on 8th April 2015 are the extant norms.

4. **Key considerations:** After broad consultations and due deliberations with key stakeholders, NDMA is of the view that for *ex-gratia* assistance related to COVID-19, different norms need to be applied for the following reasons:

   a. COVID-19 is a disaster that has not abated. The total number of deaths continues to rise. There is uncertainty about new variants of the virus and likely future waves. Therefore, it is not possible to ascertain the total final financial burden emanating from *ex-gratia* assistance. Financial prudence demands that we plan in a manner that assistance can be provided to larger number of people should the number of deaths rise.

   b. The state governments have already been incurring large expenditure from SDRF on various aspects of COVID-19 prevention, management and response. In addition, central government from the national budget has announced several measures to prevent COVID-19 (nationwide vaccination drive) as well as to provide relief assistance to those affected by COVID-19 (for example, support provided to the orphaned children, and PM Garib Kalyan Yojana Package). State governments have also announced welfare measures from the state budgets. So, in effect, some financial and material assistance has already been provided in different forms to some of the most vulnerable sections.

c. While COVID-19 is an unprecedented disaster, other natural disasters that occur more frequently have not abated. It is important that sufficient funds are available under SDRF to provide a timely and effective response to other disasters as well.

5. In view of the points mentioned in para 2, the **Authority recommends an *ex-gratia* payment to next of kin of the deceased** due to COVID-19, subject to cause of death being certified as COVID-19 as per the guidelines issued by MoHFW and ICMR.

6. **Amount of *ex-gratia* payment:** The Authority recommends an amount of Rs. 50,000/- (Fifty thousand only) per deceased person including those involved in relief operations or associated in preparedness activities, subject to cause of death being certified as COVID-19. With regards to such certification, and redressal of any grievances regarding the same, guidelines issued by MoHFW and ICMR on 3rd September 2021, and referred to in Para 2 above, will be applicable.

7. **Source of funds:** The *ex-gratia* assistance shall be provided by States from the State Disaster Response Fund (SDRF).

8. **Disbursement:** The District Disaster Management Authority (DDMA)/ district administration would disburse the *ex-gratia* assistance to the next of kin of the deceased persons. The concerned families will submit their claims through a form issued by State Authority alongwith specified documents including the death certificate that certifies the cause of death to be COVID-19. The DDMA will ensure that the process of claim, verification, sanction, and the final disbursement of *ex-gratia* payment will be through a robust yet simple and people-friendly procedure. All claims must be settled within 30 days of submission of required documents, and disbursed through Aadhaar linked Direct Benefit Transfer procedures.

9. **Grievance redressal:** In case of any grievances with regards to certification of the death, as prescribed in the MoHFW and ICMR guidelines mentioned above a Committee at district level consisting of Additional District Collector, Chief Medical Officer of Health (CMOH), Additional CMOH/ Principal or HOD Medicine of a Medical College (if one existing the district) and a subject expert, will propose necessary remedial measures, including issuance of amended Official Document for COVID-19 death after verifying facts in accordance with these guidelines. In case the decision of the Committee is not in favour of the claimant, a clear reason for the same shall be recorded.

10. **Continuous scheme:** The *Ex-Gratia* assistance to families affected by COVID-19 deaths will continue to be provided for deaths that may occur in the future phases of the COVID-19 pandemic as well, or until further notification.

*****

ANNEXURE R/6

No. 8/2/2017– VS (MCCD)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE REGISTRAR GENERAL, INDIA
V.S. Division, West Block –I, R.K. Puram, New Delhi – 110066
E-mail: manojlSS9.rgi@gov.in

Dated: 11.09.2021

CORRIGENDUM

Subject: **Guidelines to provide a copy of Medical Certificate of Cause of Death (MCCD) to the next of kin of deceased in compliance to the Hon'ble Supreme Court Judgement dated 30th June 2021.**

Please refer to this office Circular of even number dated 03.09.2021 on the subject mentioned above. The date in respect of Ministry of Health and Family Welfare guidelines in para 1 and 3 of the aforesaid circular may be read as "**03.09.2021**" in place of "**30.08.2021**".

(Manoj Kumar)
Deputy Registrar General

To,

The Chief Registrar of all States/UTs

Copy for information to:

1. Sr. PPS to Home Secretary, Government of India
2. Sr. PPS to Secretary, Department of Health and Family Welfare, Govt. of India
3. The Chief Secretary, of all States / UTs
4. Sr. PPS to Member Secretary, NDMA, Government of India
5. Director General, ICMR, Government of India