

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Writ Jurisdiction)

W.P.(PIL) No. _____ /2020

Gulab Chandra Prajapati

....Petitioner

Vs.

State of Jharkhand & Others

....Respondents

Subject: - For the implementation of the Dead Body Management Guidelines notified by Government of India.

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Vakalatnama shall be submitted after court reopens.

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....Petitioner

Vs.

State of Jharkhand & Others

....Respondents

Synopsis & List of Dates

That in the instant petition, the petitioner pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

- i) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly implement the COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT dated 15.03.2020 notified by Government of India, Ministry of Health & Family Welfare Directorate General of Health Services (EMR Division) and also

follow the interim guidance dated 24 March 2020 regarding infection Prevention and Control for the safe management of dead body in the context of COVID – 19 notified by World Health Organisation.

And/Or

- ii) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly follow the Bio-Medical Waste Management Rules, 2016

And/Or

- iii) For a Writ to be issued so that this Hon'ble High Court may appoint a board for monitoring the strict adherence to the laws and guidelines pertaining to dead body management.

And/Or

- iv) For a writ in the nature of Mandamus directing upon the Respondent to notify the place of burial/cremation in every district of Jharkhand and

also keep the proper record of place of burial and cremation.

And/Or

- v) For a writ to be issued directing upon the respondent to organise awareness campaign/training regarding the COVID-19 Dead Body Management guideline for the people involved in dead body management.

And/Or

- vi) Any other Writ(s) be issued, Order(s) be passed, Direction(s) be made as Your Lordships may deem fit and proper in the facts and circumstances of the case.

LIST OF DATES & EVENTS

2016	Bio Medical waste Management Rules notified.
15.03.2020	Government of India notified Dead Body Management Guidelines.
23.03.2020	WHO notified interim guidance regarding infection Prevention and Control for the safe management of dead body in the context of COVID – 19
12.04.2020	Covid-19 Patient died in Jharkhand and was denied burial in 3 Cemetery.
HENCE THIS WRIT PETITION.	

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Writ Jurisdiction)

W.P. (PIL) No. _____/ of 2020

In the matter of:-

An application under Article 226
of the Constitution of India

And

In the matter of:-

1. Gulab Chandra Prajapati, s/o Shri Dev Narayan Prasad, R/O
Lahariya Tand, P.O & P.S Bokaro Thermal, District Bokaro
829107

...Petitioner

Versus

1. Chief Secretary, State of Jharkhand, 1st Floor, Project
Bhawan, P.O. Dhurwa, P.S. Dhurwa, Ranchi, Jharkhand
834004

2. The Secretary, Department of Health, Medical Education and Family Welfare, Government of Jharkhand, Nepal House, Doranda, Ranchi, Jharkhand 834001
3. The Secretary, Department of Social Welfare, Women and Child Development, Jharkhand Mantralaya, Project Building, HEC, P.O. Dhurwa, P.S. Dhurwa, Ranchi, Jharkhand 834002

...Respondents

TO,

HON'BLE MR. JUSTICE DR RAVI RANJAN, THE CHIEF JUSTICE OF THE HIGH COURT OF JHARKHAND, RANCHI AND HIS OTHER COMPANION JUDGES OF THE SAID HON'BLE COURT.

The humble petition on
behalf of the petitioner
above named.

MOST RESPECTFULLY SHOWETH:

1. That in the instant petition, the petitioners pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

vii) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly implement the COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT dated 15.03.2020 notified by Government of India, Ministry of Health & Family Welfare Directorate General of Health Services (EMR Division) and also follow the interim guidance dated 24 March 2020 regarding infection Prevention and Control for the safe management of dead body in the context of COVID – 19 notified by World Health Organisation.

And/Or

viii) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly follow the Bio-Medical Waste Management Rules, 2016

And/Or

- ix) For a Writ to be issued so that this Hon'ble High Court may appoint a board for monitoring the strict adherence to the laws and guidelines pertaining to dead body management.

And/Or

- x) For a writ in the nature of Mandamus directing upon the Respondent to notify the place of burial/cremation in every district of Jharkhand and also keep the proper record of place of burial and cremation.

And/Or

- xi) For a writ to be issued directing upon the respondent to organise awareness campaign/training regarding the COVID-19 Dead Body Management guideline for the people involved in dead body management .

And/Or

xii) Any other Writ(s) be issued, Order(s) be passed, Direction(s) be made as Your Lordships may deem fit and proper in the facts and circumstances of the case.

2. That this writ petition has been filed on the following grounds:

Grounds

- a. For that the Government of India, Ministry of Health & Family Welfare Directorate General of Health Services (EMR Division) has passed COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT dated 15.03.2020.
- b. For that World Health Organisation (Herein after referred as WHO) has also passed an interim guidance dated 24 March 2020 regarding infection Prevention and Control for the safe management of dead body in the context of COVID - 19.
- c. For that Hon'ble Supreme Court in *Parmanand Katara v. Union of India* ((1995) 3 SCC 248) held that right

to dignity and fair treatment Under Article 21 of the Constitution of India is not only available to a living man but also to his body after his death.

d. The other ground may be urged at the time of hearing.

3. That the petitioner is a respectable man in the society and has a genuine concern regarding the dead body management because of death due to COVID-19. The petitioner has no personal interest, direct or indirect, in subject matter of the Public Interest Litigation.

A photocopy of UIDAI of the petitioner is annexed herewith and marked as **Annexure-1** forming part of this writ application

4. That the Petitioner has not moved earlier for the same relief as prayed in this Public Interest Litigation.

5. That the cause of action for filing this public interest litigation has arisen within the territorial jurisdiction of this Hon'ble court.

6. That it is stated and submitted that a pneumonia of unknown cause detected in Wuhan, China was first reported to the WHO Country Office in China on 31 December 2019. Coronaviruses (CoV) are a large family of viruses that cause illness ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS-CoV) and Severe Acute Respiratory Syndrome (SARS-CoV).

Coronavirus disease (COVID-19) is a new strain that was discovered in 2019 and has not been previously identified in humans. Coronaviruses are zoonotic, meaning they are transmitted between animals and people. Detailed investigations found that SARS-CoV was transmitted from civet cats to humans and MERS-CoV from dromedary camels to humans. Several known coronaviruses are circulating in animals that have not yet infected humans. Common signs

of infection include respiratory symptoms, fever, cough, shortness of breath and breathing difficulties. In more severe cases, infection can cause pneumonia, severe acute respiratory syndrome, kidney failure and even death.

Standard recommendations to prevent infection spread include regular hand washing, covering mouth and nose when coughing and sneezing, thoroughly cooking meat and eggs. Avoid close contact with anyone showing symptoms of respiratory illness such as coughing and sneezing. [Source WHO Website- <https://www.who.int/health-topics/coronavirus>]

7. That the people effected with COVID-19 has been detected in different state of India and on pathological examinations some of them have been found positive with COVID-19.
8. That till now as per report there are 19 positive cases of COVID-19 in State of Jharkhand. 2 people have died because of COVID-19 in State of Jharkhand.
9. That the Government of India, Ministry of Health & Family Welfare Directorate General of Health Services (EMR

Division) has passed COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT dated 15.03.2020.

A web copy of GUIDELINES ON DEAD BODY MANAGEMENT is annexed herewith and marked as **Annexure-2** forming part of this writ application

10. That World Health Organisation (Herein after referred as WHO) has also passed an interim guidance dated 24 March 2020 regarding infection Prevention and Control for the safe management of dead body in the context of COVID - 19.

A web copy of WHO guidance is annexed herewith and marked as **Annexure-3** forming part of this writ application

11. That on 12th April 2020, one of the Covid-19 patient resident of Hindpiri, Ranchi died. And as per news report and different social media platform, petitioner came to know that there was huge dispute regarding burial of the deceased.

Firstly it was decided to bury in the Badgai Cemetery but was not allowed. Later Joda Talab Cemetery near Bariatu was decided where also burial was not allowed. Then they move to Ratu Road Burial Ground where many people gathered and burial was not allowed. Police was also present but burial was not allowed.

Link of the news item

<https://www.jagran.com/jharkhand/ranchi-dispute-over-burial-of-corona-patient-dead-body-in-ranchi-coronavirus-news-update-20184639.html>

is annexed herewith and marked as **Annexure-4** forming part of this writ application.

12. That the above incident shows that Respondents have not yet notified any fixed place for cremation or burial of the Covid-19 dead bodies. Though there is not much threat

because of burial as per present research but Respondents must follow the Guidelines on Dead body Management.

13. That Respondent must take the best possible steps in burial or cremation of the deceased.
14. That staffs like ambulance driver, grave digger and also the family relatives of the deceased must be given proper training and provided with all the supports.
15. That that Hon'ble Supreme Court in *Parmanand Katara v. Union of India* (1995 3 SCC 248) held that right to dignity and fair treatment Under Article 21 of the Constitution of India is not only available to a living man but also to his body after his death. This kind of burial also violates the above principle.
16. That Respondent must come out with a fixed place of burial in every district of Jharkhand and also see as to there is no break up of the lockdown.
17. That petitioner also spoke to one of the resident of the Ratu Road Cemetery. The person informed him that there are number of small wells near the cemetery area. Many a times

body part has been found in the wells of the area. That is why there is fear among the people.

18. That as per Dead Body Management Guidelines, the main driver of transmission of COVID-19 is through droplets. There is unlikely to be an increased risk of COVID infection from a dead body to health workers or family members who follow **standard precautions** while handling body. **Only the lungs of dead COVID patients, if handled during an autopsy, can be infectious.**

19. That the people involved in dead body management must follow Standard Precautions while handling body and Respondents must provide proper training for standard handling. All staff identified to handle dead bodies in the isolation area, mortuary, ambulance and those workers in the crematorium / burial ground should be trained in the infection prevention control practices.

20. That as per Dead Body Management Guidelines, all the medical wastes must be handled and disposed of in and accordance with Bio Medical Waste Management Rules.

21. That it is submitted that the Respondent/s are duty bound to implement the judgment/orders passed by Hon'ble Supreme Court and follow the guidelines and rules passes by Central Government. Also under Article 51 it is the duty of Respondent to respect and foster the International Treaty.
22. That the Petitioner has got no other efficacious, speedy and alternative remedy than to move before this Hon'ble Court by way of this Public Interest Litigation for the redressal of the grievances.
23. That the Petitioner has not moved earlier for the same relief as prayed in this Public Interest Litigation.
24. That this application is being made bonafide and in the interest of public health and privacy.

It is, therefore prayed that in the instant petition, the petitioner pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

- i) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly implement the COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT dated 15.03.2020 notified by Government of India, Ministry of Health & Family Welfare Directorate General of Health Services (EMR Division) and also follow the interim guidance dated 24 March 2020 regarding infection Prevention and Control for the safe management of dead body in the context of COVID – 19 notified by World Health Organisation.

And/Or

- ii) For a Writ in the nature of Mandamus directing upon the Respondent/s to strictly follow the Bio-Medical Waste Management Rules, 2016

And/Or

- iii) For a Writ to be issued so that this Hon'ble High Court may appoint a board for monitoring the strict

adherence to the laws and guidelines pertaining to dead body management.

And/Or

- iv) For a writ in the nature of Mandamus directing upon the Respondent to notify the place of burial in every district of Jharkhand.

And/Or

- v) For a writ to be issued directing upon the respondent to organise awareness campaign/training regarding the COVID-19 Dead Body Management guideline for the people involved in dead body management.

And/Or

- vi) Any other Writ(s) be issued, Order(s) be passed, Direction(s) be made as Your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness petitioner is duty bound and shall ever pray.