

W. P. (C) Nos. 23237
and 23755 of 2020

-1-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 19TH DAY OF NOVEMBER 2020 / 28TH KARTHIKA,
1942

WP(C).No.23237 OF 2020(S)

PETITIONER/S:

MUHAMMED HALEEM K.K
AGED 44 YEARS
S/O.ABOOBCKER K.K., PALLIYALIL HOUSE,
AYIKKARAPADI P.O., NEAR AYIKKARAPADI MINI
STADIUM, VENNAYOOR, CHERUKAVU, MALAPPURAM, PIN
673637

BY ADVS.
SRI.HARIS BEERAN
SMT.O.A.NURIYA

RESPONDENT/S:

- 1 STATE OF KERALA
REP.BY THE CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM -695 001
- 2 MINISTRY OF HEALTH AND FAMILY WELFARE
REP.BY ITS SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001
- 3 MINISTRY OF LOCAL SELF GOVERNMENT DEPARTMENT
REP.BY ITS SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001
- 4 UNION OF INDIA
REP. BY ITS SECRETARY, MINISTRY OF HEALTH AND
FAMILY WELFARE, GOVERNMENT OF INDIA, NIRMAN
BHAVAN, CENTRAL SECRETARIAT, NEW DELHI 110 001

W. P. (C) Nos. 23237
and 23755 of 2020

-2-

**SRI.TEK CHAND, SR GP FOR R1 TO R3,
SRI.GIREESH KUMAR,CGC FOR R4**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2020, ALONG WITH WP(C).23755/2020(S), THE COURT
ON 19-11-2020 DELIVERED THE FOLLOWING:**

W. P. (C) Nos. 23237
and 23755 of 2020

-3-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 19TH DAY OF NOVEMBER 2020 / 28TH KARTHIKA,
1942

WP(C).No.23755 OF 2020(S)

PETITIONER/S:

MAHABOOB
AGED 45 YEARS
S/O IBRAHIM HAJI, PALLIYALI PEEDIYEKKAL HOUSE,
MELMURI, MALAPPURAM DISTRICT

BY ADV. SRI.K.RAKESH

RESPONDENT/S:

- 1 UNION OF INDIA
REPRESENTED BY ITS SECRETARY, MINISTRY OF
HEALTH AND FAMILY WELFARE, NEW DELHI-110 001.
- 2 THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF
HEALTH AND SOCIAL WELFARE, GOVERNMENT
SECRETARIAT, TRIVANDRUM, PIN-695 001.
- 3 THE DIRECTOR OF HEALTH SERVICES,
DIRECTORATE OF HEALTH SERVICES, TRIVANDRUM,
PIN-695 001.

R1 BY ADV. MR.B.PRAMOD, CGC
R2 AND R3 BY SRI.TEK CHAND, SR GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2020, ALONG WITH WP(C).23237/2020(S), THE COURT
ON 19-11-2020 DELIVERED THE FOLLOWING:

J U D G M E N T

Shaji P. Chaly, J.

The writ petitions are Public Interest Litigations filed by members of Muslim community, basically seeking to issue a writ of mandamus or direction to the respondents, who are State and its officials and the Union of India in regard to the management of the dead body of Covid -19 patients on the basis of the guide lines issued by the Government of India , World Health Organisation etc.

2. W. P. (C) No. 23237 of 2020 is filed seeking the following reliefs:-

“i) issue a writ of mandamus or any other order or writ or direction directing the respondents that the dead body of any deceased on account of COVID-19 be not only handed over to the family members but also Exhibit P1 guidelines earlier issued by the Ministry of Health and Family Welfare and also the Guidelines issued by 2nd respondent State Health and Family Welfare and also the Guidelines issued by 2nd respondent State Health and Family Welfare Department be scrupulously followed so that fundamental rights of the citizens under Articles 21 and 25 of the Constitution of India are not

violated and the Government of Kerala ensure safe and proper cremation/burial of the dead bodies in such manner, as may be directed by this Hon'ble Court following social distancing norms.

ii) issue a writ of mandamus or any other order or writ or direction directing the respondents to comply with the constitutional obligations under Articles 21 and 25 of the Constitution of India in so far as the management of the rights of COVID 19 deceased persons are concerned.

iii) issue a writ of mandamus or any other order or writ or direction directing the respondents to issue fresh guidelines that the dead body of any deceased on account of COVID-19 be not only handed over to the family members and the guidelines earlier issued by the MOHFW and WHO be compulsorily followed and the Government of Kerala ensure safe and proper cremation/burial of the dead bodies.

iv) issue a writ of mandamus or any other order or writ or direction directing the respondents that in situation that if at any time the rules regarding the handing over of dead bodies changes and the Government performs the funeral/burial, the family members of the deceased be given right to see the body for one last time, perform the cremation/burial with due safety and collect the ashes for last rites.”

3. W. P. (C) No. 23755 of 2020 is filed seeking the following reliefs:-

“i) issue a writ of mandamus or any other appropriate writs, orders or directions commanding the respondents to dwell upon the request of the Islam community to revisit the guidelines issued in Ext.P1, taking into account the relevant inputs suggestive of the fact that SARS-CoV-2 Virus will not spread from dead body;

ii) Issue a writ of mandamus or any other appropriate writs, orders or directions commanding the respondents to permit washing of dead body and shrouding of dead body, in accordance with the rituals in Islam community, ensuring health security of general public.”

4. The basic contentions advanced by the writ petitioners are that the State of Kerala is not following the Standard Operating Procedure recommended by the Union Ministry of Health and Family Welfare as well as the World Health Organization, that guidelines issued by the Union of India have to be practically followed, that the family members of the person who is hospitalized are not allowed to meet the patient as soon as he is admitted to the hospital and therefore, the family is not aware of as to what type of treatment is being given to the patient and what is the progress of his/ her health. That apart, it is submitted that as soon as the patient

dies, the hospital packs the body in plastic sheets and calls the Health Department, but the family of the deceased is called only for the purpose of making the payment of hospital bill amounting to a few lakhs of rupees. It is also the predominant contention that the dead body is not shown to the family and once the payment is effected, the Health Department takes the body away for cremation/burial, which is totally barricaded by the Police, having no public access. Again, it is contended that not a single family member is allowed to see the dead body and no one is allowed to enter into the area where cremation/burial is conducted and the family members are prevented from seeing the body or face of the deceased. It is also submitted that the neighboring State of Karnataka has followed a much more relaxed protocol and therefore, appropriate directions as is sought for by the petitioners shall be issued to the Government and its officials.

5. As directed by this Court, the Senior Government Pleader has secured instructions, wherein it is stated that as per the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994, it is the duty of the Secretary of the concerned Local Self Government

Institution, to arrange for the disposal of unclaimed dead bodies found in its jurisdiction and the expenditure for which can be borne from the Local Self Government Institution Fund. It is also pointed out that there have been cases of Covid – 19 positive death reported in the State where the relatives were reluctant to receive the body for cremation and in certain cases, the funeral of the deceased Covid - 19 patient had to be postponed, following protests by local people against the cremation in certain area, forcing the local administration to perform the last rights as per G.O. (Rt) No. 1903/2020/LSGD dated 14.10.2020. That apart, it is submitted that the Local Self Government Department issued guidelines for relatives of the deceased and for the Local Self Government Institutions for the management of a dead body in consultation with the Health and Family Welfare Department of the State Government. It is also stated that the State Government has issued the above mentioned guidelines strictly in adherence with the Standard Operating Procedure to be followed while handling the dead bodies of deceased Covid -19 patients issued by the Ministry of Health and Family Welfare, Directorate General of Health Services,

Government of India.

6. We have heard learned counsel for the petitioners Sri. Harris Beeran and Sri. Rakesh K. and the learned Senior Government Pleader Sri. Tekchand, and perused the pleadings and materials on record.

7. Apparently, W. P. (C) 23237 of 2020 was filed by the petitioner basically contending that, on the death of the mother-in-law of the petitioner on 16.10.2020 due to Covid – 19 infection, the authorities have failed to follow the protocols put in by the Ministry of Health and Family Welfare Government of India and the World Health Organization. It is also pointed out that the said act of the authorities was in gross violation of the fundamental rights guaranteed to an Indian citizen under the Constitution of India and therefore, it is a clear violation of Articles 21 and 25 of the Constitution of India. Other contentions are also raised.

8. In our considered opinion the issue is guided by the guidelines issued by the Ministry of Health and Family Welfare, Directorate General of Health Services dated 15.03.2020,

Government of India, which deal with the management of the dead body, and it reads thus:-

“1. Scope of the document

□ There are currently over 100 laboratory confirmed cases and two deaths due to Novel Coronavirus disease (COVID-19) in India. Being a new disease there is a knowledge gap on how to dispose of the dead body of a suspect or confirmed case of COVID-19.

□ This guideline is based on the current epidemiological knowledge about the COVID-19. India is currently having travel related cases and few cases of local transmission. At this stage, all suspect/ confirmed cases will be isolated in a healthcare facility. Hence the document is limited in scope to hospital deaths.

2. Key Facts

□ 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 the body.

□ Only the lungs of dead COVID patients, if handled during an autopsy, can be infectious.

3. Standard Precautions to be followed by health care workers while handling dead bodies of COVID.

Standard infection prevention control practices should be followed at all times. These include:

1. Hand hygiene.
2. Use of personal protective equipment (e.g., water resistant apron, gloves, masks, eyewear).
3. Safe handling of sharps.
4. Disinfect bag housing dead body; instruments and devices used on the patient.
5. Disinfect linen. Clean and disinfect environmental surfaces.

4. Training in infection and prevention control practices

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 infection prevention control practices.

5. Removal of the body from the isolation room or area

- The health worker attending to the dead body should perform hand hygiene, ensure proper use of PPE (water resistant apron, goggles, N95 mask, gloves).
- All tubes, drains and catheters on the dead body should be removed.
- Any puncture holes or wounds (resulting from removal of catheter, drains, tubes, or otherwise) should be disinfected with 1% hypochlorite and dressed with impermeable material.
- Apply caution while handling sharps such as intravenous catheters and other sharp devices. They should be disposed into

a sharps container.

□ Plug Oral, nasal orifices of the dead body to prevent leakage of body fluids.

□ If the family of the patient wishes to view the body at the time of removal from the isolation room or area, they may be allowed to do so with the application of Standard Precautions.

□ Place the dead body in a leak-proof plastic body bag. The exterior of the body bag can be decontaminated with 1% hypochlorite. The body bag can be wrapped with a mortuary sheet or sheet provided by the family members.

□ The body will be either handed over to the relatives or taken to mortuary.

□ All used/ soiled linen should be handled with standard precautions, put in a biohazard bag and the outer surface of the bag disinfected with hypochlorite solution.

□ Used equipment should be autoclaved or decontaminated with disinfectant solutions in accordance with established infection prevention control practices.

□ All medical waste must be handled and disposed of in accordance with Biomedical waste management rules.

□ The health staff who handled the body will remove personal protective equipment and will perform hand hygiene.

□ Provide counseling to the family members and respect their sentiments.

6. Environmental cleaning and disinfection

All surfaces of the isolation area (floors, bed, railings, side

tables, IV stand, etc.) should be wiped with 1% Sodium Hypochlorite solution; allow a contact time of 30 minutes, and then allowed to air dry.

7. Handling of dead body in Mortuary

□ Mortuary staff handling COVID dead bodies should observe standard precautions.

□ Dead bodies should be stored in cold chambers maintained at approximately 4°C.

□ The mortuary must be kept clean. Environmental surfaces, instruments and transport trolleys should be properly disinfected with 1% Hypochlorite solution.

□ After removing the body, the chamber door, handles and floor should be cleaned with sodium hypochlorite 1% solution.

8. Embalming

□ Embalming of dead bodies should not be allowed.

9. Autopsies on COVID-19 dead bodies

Autopsies should be avoided. If autopsy is to be performed for special reasons, the following infection prevention control practices should be adopted:

□ The Team should be well trained in infection prevention control practices.

□ The number of forensic experts and support staff in the autopsy room should be limited.

□ The Team should use a full complement of PPE (coveralls,

head cover, shoe cover, N 95 mask, goggles / face shield).

- Round ended scissors should be used
- PM40 or any other heavy duty blades with blunted points to be used to reduce prick injuries
- Only one body cavity at a time should be dissected
- Unfixed organs must be held firm on the table and sliced with a sponge – care should be taken to protect the hand
- Negative pressure to be maintained in mortuary. An oscillator saw with suction extraction of the bone aerosol into a removable chamber should be used for sawing skull, otherwise a hand saw with a chain-mail glove may be used
- Needles should not be re-sheathed after fluid sampling – needles and syringes should be placed in a sharps bucket.
- Reduce aerosol generation during autopsy using appropriate techniques especially while handling lung tissue.
- After the procedure, the body should be disinfected with 1% Sodium Hypochlorite and placed in a body bag, the exterior of which will again be decontaminated with 1% Sodium Hypochlorite solution.
- The body thereafter can be handed over to the relatives.
- Autopsy table to be disinfected as per standard protocol.

10. Transportation

- The body, secured in a body bag, exterior of which is decontaminated poses no additional risk to the staff transporting the dead body.
- The personnel handling the body may follow standard

precautions (surgical mask, gloves).

□ The vehicle, after the transfer of the body to cremation/ burial staff, will be decontaminated with 1% Sodium Hypochlorite.

11. At the crematorium/ Burial Ground

□ The Crematorium/ burial Ground staff should be sensitized that COVID 19 does not pose additional risk.

□ The staff will practice standard precautions of hand hygiene, use of masks and gloves.

□ Viewing of the dead body by unzipping the face end of the body bag (by the staff using standard precautions) may be allowed, for the relatives to see the body for one last time.

□ Religious rituals such as reading from religious scripts, sprinkling holy water and any other last rites that does not require touching of the body can be allowed.

□ Bathing, kissing, hugging, etc. of the dead body should not be allowed.

□ The funeral/ burial staff and family members should perform hand hygiene after cremation/ burial.

The ash does not pose any risk and can be collected to perform the last rites.

Large gatherings

at the crematorium/ burial ground should be avoided as a social distancing measure as it is possible that close family contacts may be symptomatic and/ or shedding the virus.”

9. Consequent to the guidelines issued by the Government of

India, the State Government has issued a guideline to all concerned in regard to management of the dead bodies in Kerala which reads thus:-

“Scope

Recently there have been cases of Covid-19 positive death reported in Kerala, where the relatives were reluctant to receive the body for cremation forcing the local administrator to perform the last rites. In some cases, the relatives were willing to take the body for cremation but the funeral of the deceased COVID patient had to be postponed following protests by locals against the cremation in their area. If the relatives are reluctant to take the body of the deceased for cremation, the Municipal Panchayat administration is bound to come forward to perform the last rites. As per Kerala Panchayat Raj Act 1994 and the Kerala Municipal Act. 1994 it is the duty of the Secretary of the concerned LSG to arrange for the disposal of unclaimed dead bodies found within its jurisdiction, the expenditure for which can be borne from the LSG Fund.

No guidelines have been issued so far recording unconfirmed cases of Covid-19 deaths at hospitals and residences, but this has also become a concern in Kerala since many cases are detected posthumously. In these circumstances it is found necessary to formulate guidelines by compiling the directions issued by the Ministry of Health and Family Welfare on Covid-19 dead body Management and standard precautions to be

followed by the relatives and municipal health workers while handling dead bodies of Covid-19.

Transportation from hospital/mortuary

The body secured in a body bag, exterior of which is decontaminated poses no additional risk to the staff transporting the dead body can be handed over to the relatives with intimation to the local body to which the deceased belongs and relatives shall receive and transport it. In case of relatives not willing to receive the body, it becomes the responsibility of the local body to ensure safe handling, transportation and creation of the body. The personnel handling the body may follow standard precautions (surgical mask. gloves) as per health protocol. The vehicle, which is ideally an ambulance or a fully covered vehicle with proper separation of the driver cabin from the rest of the vehicle, after the transfer of the body to cremation/ burial staff, will be decontaminated with 1% Sodium Hypochlorite under supervision of the health staff.

Burial / cremation by family members

The main driver of transmission of COVID-19 is droplets. There is an increased risk of COVID infection from a dead body to family members who fail to follow the standard precautions during last rites of the deceased. Standard infection prevention control practices should be followed at all times. These include, hand hygiene, use of personal protective equipment (e.g., water resistant apron, gloves, masks,

eyewear), safe handling of bag housing dead body, training in infection and prevention control practices of all relatives, municipal health and sanitation staff identified to handle dead bodies for cremation.

Family and friends may view the body after it has been prepared for burial, in accordance with customs. Body should not be taken out for the purpose of bathing, viewing or placing in an ice box etc. They should not touch, kiss the body and should wash their hands thoroughly with soap and water following the viewing; physical distancing measures should be strictly applied (at least 1m between people). Number of people attending the funeral should be strictly restricted as per the Government regulations in force at the time. Those tasked with placing the body in the grave, on the funeral pyre, etc. should wear PPE as per health protocol and wash hands with soap and water once the burial is complete; Cleaning of reusable PPE should be conducted in accordance with manufacturer's instructions for all cleaning and disinfection products (e.g. concentration, application method and contact time. etc.). Children, persons above 60 years, and immunosuppressed persons should not directly interact with the body.

Although burials should take place in a timely manner in public/private graveyard and crematorium (or family burial ground if it is having facilities for safe burial / cremation as per protocol to the satisfaction of health staff of the local body), post funeral ceremonies not involving the burial should be

postponed, as much as possible, until the end of the epidemic. If a ceremony is held, the number of participants should be limited. Participants should observe physical distancing at all times plus respiratory etiquette and hand hygiene; It is not compulsory that the belongings of the deceased person be burned or otherwise disposed of. However, they should be handled with gloves and cleaned with a detergent followed by disinfection with a solution of it least 70% ethanol or 0.1% (1.000 ppm) bleach, and Clothing and other fabric belonging to the deceased should be machine washed with warm water at 60-90°C (140-194°F) and laundry detergent. If machine washing is not possible, linens can be soaked in hot water and soap in a large drum using a stick to stir and being careful to avoid splashing. The drum should then be emptied, and the linen soaked in 0.05% chlorine for approximately 30 minutes. Finally, the laundry should be rinsed with clean water and the linens allowed to dry fully in sunlight.

WHO guidelines state that there is unlikely to be an increased risk of COVID infection from a dead body to health workers or family members who follow standard preparations. This applies to staff at the crematorium or burial ground too.

The Crematorium / burial Ground staff (list of persons, the duty list, off days all to be properly maintained) should be sensitized that COVID 19 does not pose additional risk. The staff will practice standard precautions of hand hygiene, use of masks and gloves. Viewing of the dead body by unzipping the

face end of the body bag (by the staff using standard precautions) may be allowed, for the relatives to see the body for one last time.

Religious rituals such as reading from religious scripts, sprinkling holy water and any other last rites that does not require touching of the body can be allowed. Bathing, kissing, hugging, etc. of the dead body should not be allowed. The cremation and burial should be done as per the protocol issued by the Ministry of Health and Family Welfare. The funeral / burial staff and family members should perform hand hygiene after cremation / burial. The ash does not pose any risk and can be collected to perform the last rites. Large gatherings at the crematorium / burial ground should be avoided as a social distancing measure as it is possible that close family contacts may be symptomatic and/or shedding the virus.

Burial by the Municipal/Panchayat Authorities

The body of a COVID-19 positive/suspect patient will be sent to mortuary within 2 hours of death in hospital. If no family member or relative gets in touch with the mortuary or is reluctant to receive the body in 12 hours, the hospital authorities shall send an intimation to the municipal authorities through the SHO regarding the cremation / burial. When the relatives are reluctant to take the bodies for cremation or in case of unclaimed bodies, LSGS shall make all the

arrangements to cremate / bury such dead bodies as per the protocol issued by the Ministry of Health and Family Welfare.

The local authorities may fix the date and time of the funeral and an intimation may be sent to the relatives so that they can attend the funeral. Body should be cremated as per rituals of the religion concerned, as much as possible. Standard infection prevention control practices should be followed at all times. The staff will practice standard precautions of hand hygiene, use of masks and gloves. The municipal staff those tasked with placing the body in the grave, on the funeral should wear gloves and wash hands with soap and water once the burial is complete.

The expenses of the removal and disposal of body shall be borne by the LSG; but such expenses may be recovered as if it were a tax due to the local authority from any person who would have been legally liable therefor but for such removal and disposal, unless in the opinion of the local authority, he is too poor to do so.

In case of deaths at home, the local body shall be intimated and they will monitor that the family is maintaining a list of those who participate in the rituals. Relatives cum proceed with the burial / cremation procedures. Large gatherings shall be avoided. Documents pertaining to death and treatment should be maintained for future reference if necessary.”

10. The paramount contention advanced by Sri. Harris Beeran, learned counsel appearing for the petitioner in one of the writ petitions, is that the World Health Organization has issued Ext. P2 protocol and in accordance with the same, there is no prohibition for performing the last rights of a deceased person and to wash the dead body, and therefore, this Court may issue directions to the State Government to take into account the guidelines issued by the World Health Organization in respect to burial and cremation, so as to eliminate the grievances highlighted by the family members of any deceased, consequent to Covid – 19.

11. However, we are of the considered opinion that when the Union Government has issued guidelines as per the provisions of the Disaster Management Act and Rules, the State Government is duty bound to follow the same, and the State or the Central Government cannot be directed to follow the guidelines issued by the World Health Organization. The guidelines are issued by the Union Government taking into account the fact situations prevailing in India and after securing necessary inputs and information from the respective stakeholders in regard to management of the dead body of

a Covid – 19 patient. Exercising the power under Article 226 of the Constitution of India, this Court is not expected to overturn the guidelines or making additions to the guidelines without taking note of the exercise already undertaken by the Union Government before issuing the guidelines for management of the dead body of Covid – 19 patients. On a reading of the guidelines of the Government of India and the State of Kerala, it is clear that specific instructions are given with respect to performance of last rights of a deceased Covid -19 patient. It also shows that clear prohibitions are created thereunder from touching the body and washing. Therefore, we cannot substitute the said protocol and permit either the relatives or issue directions to the staff of the hospital or any other department to wash the dead bodies.

12. The paramount contention put forth by Sri. Harris Beeran, learned counsel for the petitioner was that, as per the guidelines issued by the State Government, it is clearly stated that World Health Organization guidelines state that there is unlikely to be an increased risk of Covid – 19 infection from a dead body to health workers or family members, who follow standard preparations.

13. In our considered view, the said aspect is made in the guideline of the State Government so as to eliminate any fear or apprehensions of the staff of the hospital and other health workers while handling the dead body and that has nothing to do with the performance of the last rights, or gives any indication to be followed on the basis of the guidelines of the World Health Organization which are only recommendatory in nature. Moreover, the guidelines are issued by the Union Government and the State Government in the larger interest of the public and such guidelines are issued to ensure that the Covid – 19 pandemic is not being spread in a dreaded manner, so as to affect the public and with the objective to contain the disease. Therefore, while considering the intentions of the guidelines extracted above, a court shall give significance and importance to the larger interest of the public. It thus means, if a person touches the body of a deceased Covid – 19 patient for the purpose of washing, there is likelihood of him being infected with Covid – 19 and thereby, there is a likelihood of spreading the disease to others. True learned counsel for the petitioners had addressed arguments founded on Articles 21 and 25 of the

constitution of India dealing with protection of life and personal liberty and freedom of conscience and free profession, practice and propagation of religion respectively. But, in our considered opinion, the individual interests based on such fundamental rights have to give way to the interests of the community at large, in view of the emergent situations prevailing due to the pandemic Covid-19. Which thus also means, in the prevailing situation, the Government has a duty to ensure that the activities of the public are regulated and managed to the common advantage of the people as a whole. It may be correct, in that process, there is a chance of the rights and privileges of individuals or a group guaranteed under the Constitution of India affected, but that is unavoidable in an extraordinary situation like the one at hand because the State has to protect the life, liberty, interests and well-being of the community as such in preference to an individual. This is more so in a welfare State like India, where the duty of the State to look after the welfare of the community as such is more predominant than any individual or vested interests, especially in a pandemic situation like the present one. Said so, we have no second thoughts to say that the

rights of an individual, however, high and precious at times has to be sacrificed to serve the best interest of the citizens at large and pave way for convenience, rather than making any pedantic and narrow approach to the issue.

14. Taking into account all the above aspects, we do not think, we need to issue any direction to the State Government or the Union Government to overlook the directions contained in the guidelines as above and to follow the guidelines of the World Health Organization. Therefore, the writ petitions are disposed of directing the State Government to strictly follow the guidelines issued by the Union of India and the State Government in the management of the dead bodies, and to make necessary arrangements for the performance of the last rights in accordance with the relevant guideline of the guidelines extracted above.

Sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

Sd/-
SHAJI P. CHALY,
JUDGE.

Eb

///TRUE COPY/// P. A. TO JUDGE

APPENDIX OF WP (C) 23237/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF GUIDELINES ON DEAD BODY MANAGEMENT DATED 15.3.2020
EXHIBIT P2	TRUE COPY OF GUIDELINES ON INFECTION PREVENTION AND CONTROL FOR THE SAFE MANAGEMENT OF A DEAD BODY IN THE CONTEXT OF COVID-19 DATED 4.9.2020
EXHIBIT P3	TRUE COPY OF STANDARD OPERATING PROTOCOL ON DEAD BODY MANAGEMENT ON 14.10.2020
EXHIBIT P4	TRUE COPY OF STANDARD OPERATING PROTOCOL OF STATE OF KARNATAKA ON DEAD BODY MANAGEMENT
EXHIBIT P5	TRUE COPY OF JUDGMENT IN WPA 5479 OF 2020 PASSED BY HON'BLE HIGH COURT OF CALCUTTA
EXHIBIT P6	TRUE COPY OF ORDER IN SUO MOTU WP NO.7492 OF 2020 PASSED BY HON'BLE HIGH COURT OF MADRAS
EXHIBIT P7	TRUE COPY OF JUDGMENT IN WP(C) NO.3270 OF 2020 PASSED BY HON'BLE HIGH COURT OF DELHI
EXHIBIT P8	TRUE COPY OF JUDGMENT OF HON'BLE HIGH COURT OF BOMBAY
EXHIBIT P9	TRUE COPY OF REPRESENTATION DATED 22.10.2020 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS WITH ENGLISH TRANSLATION
EXHIBIT P10	TRUE COPY OF GUIDELINES OF IMPORTATION OF HUMAN REMAINS OF COVID-19 PATIENTS/SUSPECTS

APPENDIX OF WP (C) 23755/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE GUIDELINES ON DEAD
BODY MANAGEMENT ISSUED BY THE CENTRAL
GOVERNMENT DATED 15.3.2020**