

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE RAJ MOHAN SINGH
&
HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH**

ON THE 27th OF MAY, 2024

WRIT PETITION No. 27631 of 2022

BETWEEN:-

1. **RAJLAXMI SHARMA**

2. **SATYARTH PATERIYA**

....PETITIONERS

(BY SHRI AKASH CHOUDHARY - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH ITS
PRINCIPAL SECRETARY REVENUE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
2. **DIVISIONAL COMMISSIONER, SAGAR DIVISION
SAGAR (MADHYA PRADESH)**
3. **DISTRICT COLLECTOR, PANNA DISTRICT PANNA
(MADHYA PRADESH)**
4. **PRINCIPAL SECRETARY, DEPARTMENT OF
URBAN ADMINISTRATION AND DEVELOPMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
5. **RELIEF COMMISSIONER, DEPARTMENT OF
REVENUE, ARERA HILLS RAHAT BHAWAN,
ARERA HILLS BHOPAL (MADHYA PRADESH)**

6. **DEPUTY RELIEF COMMISSIONER, DEPARTMENT OF REVENUE, ARERA HILLS, RAHAT BHAWAN, ARERA HILLS BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI G.P. SINGH - GOVERNMENT ADVOCATE)

This petition coming on for admission this day, Justice Raj Mohan Singh passed the following:

ORDER

The present Writ Petition has been filed by the petitioners, challenging the orders dated 20.09.2021 and 18.08.2022 (Annexure P/1) passed by the Deputy Relief Commissioner, Department of Revenue (M.P.). The petitioners are legal heirs of the deceased employee namely Shri Arun Pateriya, who died in harness while posted as Chief Municipal Officer, Ajaygarh during second wave of COVID - 19. The claim of the petitioners to receive the benefit of Mukhyamantri COVID -19 Yoddha Kalyan Yojna has been denied by the Commissioner in the capacity of Deputy Relief Commissioner.

2. A perusal of the record would show that the relief has been declined to the petitioners by interpreting para 3.1 of the Mukhyamantri COVID -19 Yoddha Kalyan Yojna. The para No.3.1 would show that the government employees who were involved in actual service for curtailing Covid i.e. the hospitals earmarked for Covid Treatment/ Covid Care Centre / Covid Testing Lab, Quarantine Centres were involved in curtailment of Covid - 19 by serving door to door collection of samples, investigations and serve in containment areas for the cleanness and different works having possibility of direct contact with Covid patients, were eligible. The government employees who were eligible under the Prime Minister Garib Kalyan Package would not be entitled under this scheme.

3. Vide letter dated 09th April, 2021, the Collector Panna circulated instructions to all Chief Municipal Officers, Municipal Council / Nagar Parishad, District Panna ensuring that all the citizens, merchants, passengers etc. to come out of their houses with mask on their faces. All the persons coming to the shops and Commercial establishments must wear mask. A regular canvassing be done for preventing the spreading of corona virus through loud speaker and citizens of the city be asked to wear masks and maintain social distancing. The violation of instructions would entail in imposition of fine of Rs.100/- and Officers were directed to give mask to such persons violating the instructions. The Collector was to be informed in respect of daily report by 06:00 P.M.

4. With reference to the aforesaid letter, learned counsel for the petitioners submitted that the deceased Arun Pateriya was actively involved in the drive to protect the citizens of spreading of Novel Corona virus. Vide letter dated 30th June, 2021 (Annexure P/7) the case of the petitioners was recommended by the Collector, District Panna / concerned Committee to the Relief Commissioner endorsing that Shri Arun Pateriya was actively involved in prevention of Novel Corona virus and during these activities he was infected with Corona virus and died on 22nd May, 2021 during treatment. The wife of the deceased namely Smt. Rajlaxmi Sharma has claimed the amount of Rs.50 Lacs under the Mukhyamantri COVID -19 Yoddha Kalyan Yojna and, therefore, the amount be paid to her under the scheme as she is fully eligible. In the Committee constituted under the Mukhyamantri COVID -19 Yoddha Kalyan Yojna for the propose of scrutinizing the application forms, a meeting was held under the Chairmanship of the Collector, Panna on 30.06.2021 and the case of the petitioners was found to be genuine.

5. In the aforesaid deliberations of the Committee, it was observed that

the death of Shri Arun Pateriya was due to Covid - 19 virus and he was infected with the aforesaid virus while on duty and died on 22.05.2021. The case of the petitioners was recommended for payment of compensation amount of Rs.50 Lacs. The Collector vide letter dated 03.11.2021 again reiterated the claim of the petitioners on account of death of Shri Arun Pateriya due to corona virus, when he was deputed in the drive to prevent citizens from being infected by corona virus Covid - 19. The deceased was deputed to involve himself in awareness drive through respectable Dharamgurus and Self Help Groups. It was also endorsed that the deceased Shri Arun Pateriya, the then Project Officer, District Urban Development Agency, Panna and the then Chief Municipal Officer was involved in "Roko - Toko" drive in order to save covid patients and he remained with the team and was involved in rescue work. Due to this he himself was infected with covid and died during treatment.

6. The claim of the petitioners was duly recommended before the Relief Commissioner. Late Shri Arun Pateriya was duly conferred with certificate of Covid-19 Yoddha on the eve of Independence Day, 2021. The symbol of identification was given to his son Shri Satyarth Pateriya (petitioner No.2) by the Collector Panna. Despite the aforesaid repeated communications issued by the Collector Panna, the needful was not done by the competent authority/ Relief Commissioner, solely on the ground that the claim of the petitioners was not in consonance with para 3.1 of the Mukhyamantri COVID -19 Yoddha Kalyan Yojna.

7. The perusal of the aforesaid para 3.1 covers the case of the deceased being Chief Municipal Officer, deputed to serve the containment area for the purposes of keeping cleanliness and also indulged in prevention drive thereby

running a very high risk of having contact with covid patient. Infact the deceased died on account of covid, while in service and on prevention drive. The claim of the petitioner has been rejected on the flimsy grounds.

8. A perusal of the order dated 07th April, 2021 issued by the Office of Collector and District Magistrate, Panna would indicate that the deceased Arun Pateriya, Project Officer, District Urban Development Agency cum Chief Municipal Officer, Panna was deputed on "Roko - Toko" drive by having contacts with respectable Dharamgurus and Self Help Groups for the purposes of making awareness through canvassing against the spreading of Covid - 19.

9. In column No.14 of the aforesaid order, the deceased was also deputed for establishing containment zone in accordance with the Covid - 19 guidelines. The Tahsildar, district Panna was also involved along with the deceased Arun Pateriya. Tahsildar and Deputy Collector also died on account of Covid - 19 infections along with deceased Arun Pateriya. The heirs of aforesaid Tahsildar and Deputy Collector have been duly paid the amount under the scheme, leaving the petitioners to run pillar to post since 25.05.2021.

10. The perusal of the government order dated 18.04.2021 issued to all the Commissioners and all the Chief Municipal Officers, it was decided that in the isolation home situated within the Municipal limits, medicine kit be made available to all the patients by visiting their houses and inspect about home isolation. Every unit has to abide by the instructions in respect of home isolation by providing medicine kit in zone/ ward and team was to be appointed accordingly. Every steps were to be taken in every district in respect of home isolation and the number of patient under the home isolation and monitoring was to be done through Control Room or Control Command Centre. The different teams were constituted to carry out the directions. Other instructions issued by

the Chief Secretary were also circulated in order to ensure kit distribution at every State/District level from Control Room to direct home isolation where covid patients were lodged. Contact were to be made through phone and the same was to be recorded in "Sarthak App" of the Health Department. In the similar instructions dated 27.04.2021 issued by the Chief Secretary to all the Commissioners and Chief Municipal Officers for taking all preventative steps and making micro and small containment zone and by imposing restrictions for strict implementation of the orders. In such micro containment and mini containment area restrictions were to be imposed in respect of free movement of persons and people were to be asked to remain in their houses and the same was to be strictly followed. All such areas and general areas were to be regularly sanitized.

11. It is a very strange case, where despite the death of Shri Arun Pateriya while on duty, having been infected by Covid -19 for which he was specifically assigned and deputed on job, the claim of the petitioners being heirs of the deceased has been declined solely on the basis of para 3.1 of Mukhyamantri COVID -19 Yoddha Kalyan Yojna. The perusal of aforesaid para would show that the case of the petitioners is fully covered even under that para 3.1 of the scheme.

12. Different assignments ordered by the government are indicative of the fact that the deceased Arun Pateriya was deputed for carrying out all such activities in order to prevent spreading of Covid - 19 in the capacity of Chief Municipal Officer. Tahsildar and Deputy Collector involved in the such a drive were also infected with corona virus and they also died. It is very strange that the death of Tashildar and Deputy Collector have been found to be covered

under the scheme of Mukhyamantri COVID -19 Yoddha Kalyan Yojna, whereas the case Shri Arun Pateriya has been isolated for the reasons best known to the respondents.

13. Evidently, there is no ground to create any such artificial & meaningless classification viz-a-viz the death of Shri Arun Pateriya on one hand and deaths of Tahsildar and Deputy Collector on other hand. In those trying days, when second wave of Corona virus was at its peak, there were so many factors, which were responsible for spreading of Covid. Even A - symptomatic person created havoc in surrounding areas. The nature of job assigned to Shri Arun Pateriya was such that he was involved himself actively in carrying out the government directions from time to time. The specific letters were issued to all Chief Municipal Officers, along with Revenue Officers to implement and carry out the decision of the government for controlling and curtailing the spread of corona virus by creating different containment zones and "Roko - Toko" abhiyan by involving respectable Dharamgurus and Self Help Group of the society in order to prevent spreading of the Covid - 19 and to make awareness.

14. Shri Arun Pateriya died on 22.05.2021. After his death, his son was given certificate of Covid - 19 Yodha on behalf of the deceased Arun Pateriya, endorsing that he died while performing Covid duty and was honored posthumously by way of mark of identification.

15. It is very strange that the competent authorities have isolated the case of the deceased Arun Pateriya with no reasons except to harp upon para No.3.1 of Mukhyamantri COVID -19 Yoddha Kalyan Yojna, which is apparently not applicable to the facts of the case in the light of the order dated 07.04.2021 passed by the Collector and orders dated 18.04.2021 and 27.04.2021 passed by the Chief Secretary, circulating the decision to all Chief Municipal Officers, in

respect of taking all necessary preventative steps for curtailing Covid - 19 by all possible means.

16. In compliance of aforesaid letters, the deceased Arun Pateriya undertook all the necessary actions / assignments and while doing so he got himself infected with Covid - 19 and ultimately died on 22.05.2021. The death of Shri Arun Pateriya was attributed to corona virus. He died while in his service and while performing active duty in the drive against corona virus. His death could not have been distinguished by the respondents on mere conjectures and surmises. The petitioner No.1 is the widow of Shri Arun Pateriya and is suffering from cancer. She along with her son/petitioner No.2 has been made to run pillar to post for claiming her lawful entitlement, despite positive recommendations by the Collector, Panna from time to time.

17. The impugned orders collectively attached as Annexure P/1 are totally illegal, arbitrary, discriminatory and are proved to be result of the malafide. The petitioners have been victimized by way of not granting their lawful claim for more than 3 years. This Court finds that the impugned orders are totally illegal and smacks of foul play. Though the petitioners have not alleged any malafide against any specific persons, but this Court is of the view that the claim of the petitioners has been declined in a totally illegal and arbitrary manner.

18. Since the petitioner No.1 is a cancer patient and has been harassed to a greater degree in making her to run from pillar to post, therefore, this Writ Petition is allowed with a cost(s) of Rs.1 Lac to be paid to the petitioner No.1 on account of her unnecessary harassment. The cost shall be paid by the respondent/department within a period of 1 month from the date of receipt of copy of this order.

19. The copy of the order be sent to the concerned quarters for implementation of the order with the time prescribed.

Writ Petition is accordingly allowed.

(RAJ MOHAN SINGH)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

Vin**

