

Court No. - 1

Case :- P.I.L. CIVIL No. - 16150 of 2020

Petitioner :- Suo-Moto Inre: Right To Decent & Dignified Last Rites/Cremat

Respondent :- State Of U.P. Thru Additional Chief Secretary, Home And Ors.

Counsel for Petitioner :- Abhinav Bhattacharya, Ajit Singh, Anjani Kumar Mishra, Ashish Kumar Agarwal, Atul K. Singh, Atul Kumar Singh, Digvijay Singh Yadav, Jaideep Narain Mathur (Ac, Nadeem Murtaza, Onkar Singh, Pradeep Kumar Singh, Seema Kushwaha

Counsel for Respondent :- C.S.C., Ashok Shukla, Dr. Ravi Kumar Mishra

Hon'ble Pankaj Mithal, J.

Hon'ble Rajan Roy, J.

Heard Sri S.V. Raju, learned Advocate appearing for the State assisted by Sri A. Venkatesh, Advocate, Pranjali Krishna, Advocate, Shaurya R. Rai, Advocate, and Miss Seema Kushwaha learned counsel appearing for the petitioner, along with Sri Pradeep Kumar Singh, Advocate, Sri Digvijay Singh Yadav, Advocate, Sri Ashish Kumar Agarwal, Advocate,

Application of service of orders filed by the *amicus curiae* is taken on record.

Sri Anurag Singh, learned counsel for the C.B.I. has submitted a report pertaining to the status of investigation by the C.B.I. which we have perused. Let the same be put back in sealed cover.

Sri Anurag Singh informed the Court that investigation by Central Bureau of Investigation (C.B.I.) is expected to be completed by 10.12.2020.

The State has prepared an affidavit which may be filed in the Registry after serving its copies upon all the concerned counsels.

Let the office index the audio-video material provided by the Media Houses etc. in these proceedings. The index shall also mention such material annexed with report of the *amicus* and those annexed with the affidavits filed by the State etc. A copy of the said index shall be provided to the learned *amicus curiae*.

Henceforth any such audio-video material available with Media & News Paper Houses etc. can be filed in these proceedings through the *amicus Sri Abhinav Bhattacharya* who is assisting the learned Senior Counsel Shri J.N. Mathur in the matter.

Sri J.N. Mathur, learned Senior Counsel, assisting the Court invited our attention to Draft Standard Operating Procedure (S.O.P.) prepared by the State Government for meeting such eventualities as had arisen in this case involving cremation of a deceased consequent to a crime. He expressed reservations on certain clauses of the Draft S.O.P.

Sri Raju, learned Senior Counsel appearing for the State stated that that the Government was open to suggestions and the learned *amicus* may go through the same and assist the Court on this issue on the next date.

Miss. Seema Kushwaha, learned counsel appearing for the victim's family submitted that a job which was promised by the Government to one of the members of the victim's family has not yet been provided. The learned counsel for the State shall ascertain the facts in this regard and assist the Court accordingly on the next date.

Miss. Kushwaha has placed before us a letter of the District Magistrate dated 23.10.2020 wherein the statement of one of the family member of the victim allegedly made before this Court that the family did not want the compensation announced by the State Government and seeking its opinion in this regard, has been referred. She says that the family never declined to accept the compensation, but it is only in an emotional moment that one of the family members who has been referred in the earlier order as 'BW' stated that once we have lost the girl no amount of money can compensate her loss which did not imply refusal to accept the compensation, yet such recitals have been made in the letter of the District Magistrate.

We asked Sri Raju, learned Senior Counsel appearing for the State as to what are his instructions with regard to continuance of the District Magistrate at Hathras, the learned counsel submitted that after pondering over the issue Government has decided not to transfer the District Magistrate for reasons, firstly, that a political game is being played and the transfer of District Magistrate has been made a political issue by political parties with oblique motive so as to exert political pressure. Secondly, he submitted that there is no question of the District Magistrate tampering with the evidence relevant to the investigation. Thirdly, security of the family is now in the hands of the C.R.P.F. with which the State Government and its authorities have no concern. Fourthly, the investigation itself is being conducted by the Central Bureau of Investigation and here also the State Government does not have any role. He also attempted to justify the cremation of the victim in the night by narrating the facts and to contend that the District Magistrate

did not commit any wrong in this regard.

As there is no time left, List/put up this matter on 16.12.2020 at 3:15 P.M.

Let the office provide a copy of all pending applications for intervention/impleadment, if any, to the learned *amicus curiae* who may go through the same and assist us on the next date in this regard.

In the meantime, if pleadings, which are on record, have not already been exchanged between the parties, let the same be exchanged and response, if any, be also filed.

(Rajan Roy,J.) (Pankaj Mithal,J.)

Order Date :- 25.11.2020/A.Nigam