

Court No. - 46

Case :- HABEAS CORPUS WRIT PETITION No. - 399 of 2021

Petitioner :- Rahul Yadav

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Pankaj Sharma,Prakash Sharma

Counsel for Respondent :- G.A.

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Piyush Agrawal,J.

Heard Sri Sharda Prasad Misra, learned counsel for the petitioner and Sri Rishi Chadda, learned A.G.A. for the State respondents.

On oral request of learned counsel for the petitioner, Principal Secretary/ Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow and Principal Secretary/Additional Chief Secretary (Medical & Health), Government of Uttar Pradesh, Lucknow, are allowed to be impleaded as respondent Nos.6 and 7. Necessary correction in the array of parties be carried out during the course of the day.

Although this Court directed to file counter affidavit but despite orders of this Court the respondent nos. 2, 4 and 5 have merely filed their personal affidavit without giving para-wise reply to the contents of the writ petition.

The personal affidavits placed today by the learned A.GA. before this Bench is being returned to the learned A.G.A. for filing it by E-mode.

In his personal affidavit the respondent no. 2 i.e. the Chief Medical Officer has stated that the respondent no.3 i.e. the Chief Medical Superintendent, T.B. Sapru Hospital, Prayagraj, has the administrative and financial control over the aforesaid Hospital i.e. Tej Bahadur Sapru Hospital, Prayagraj and he is under direct control of the Director Medical Health. He has stated in paragraph 6 of his personal affidavit that as per report submitted by the Chief Medical Superintendent T.B. Sapru Hospital, Prayagraj, dated 18.08.2021, the corpus, namely, Ram Lal Yadav, was missing from his bed of the hospital since morning of 08.05.2021.

In his personal affidavit the Superintendent of Police, Prayagraj has stated that the CCTV Cameras of Tej Bahadur Sapru Hospital were not found functional and as such the Chowki In-charge, Indu Verma, who visited Beli Hospital could not obtain C.C.T.V. Footage. He mentioned various efforts being made to trace the corpus. He has also stated the the corpus Ram Lal Yadav was working as Junior Engineer in Electricity Department, New Delhi, and was staying there as he also has a house at New Delhi as told by people of his residential village in District Kaushambi to the team of two constables.

In his personal affidavit the District Magistrate, Prayagraj has stated that a fact

finding inquiry has been set up on 18.08.2021, appointing the City Magistrate, Prayagraj to enquire into the matter and submit a report within a week.

It is a matter of serious concern that gross negligence has been *prima facie* shown by the Officers/Doctors/Staff of T.B. Sapru Hospital, Prayagraj. The facts stated by the Senior Superintendent of Police, Prayagraj, in his personal affidavit also indicates apathetic condition of T.B. Sapru Hospital, Prayagraj, where even C.C.T.V. Cameras are non functional. Undisputedly, the corpus was admitted in T.B. Sapru Hospital for treatment as he was tested corona positive. Neither the District Administration nor the Police nor the Hospital appears to be serious about the missing of the corpus although more than three months have passed since the missing report was registered on 08.05.2021.

This *prima facie* shows not only gross negligence and dereliction in duty by the Officers/Doctors/Staff of the TB Sapru Hospital, Prayagraj but also indicates total carelessness in treatment, look-after and safety of COVID patients at T.B. Sapru Hospital, Prayagraj.

Matter requires immediate attention of Principal Secretary, Medical Health and the Principal Secretary Home, Uttar Pradesh for immediate action and response failing which this Court may consider to call for personal presence of both the aforesaid Principal Secretaries/Additional Chief Secretaries.

The State Government shall also immediately ensure that all infrastructure facilities and security equipments, safety and security measures of high standards be installed with inbuilt provisions of its regular maintenance and periodical audit. Report/plan in this regard shall also be placed before Court by the Principal Secretary/Additional Principal Secretary, Medical Health and the Principal Secretary/Additional Chief Secretary, Home on the next date fixed.

The respondent no.1 shall ensure that before the next date fixed the corpus may be traced and a report in this regard be placed before this Bench.

Before the next date fixed the respondent no.3 i.e. the Chief Medical Superintendent T.B. Sapru Hospital, Prayagraj, shall also file counter affidavit by means of his personal affidavit.

On the next date fixed the respondent nos. 2, 3, 4 and 5 shall remain personally present before this Court.

Put up as a fresh case on 27.08.2021 at 10 A.M. for further hearing.

Order Date :- 19.8.2021/vkg