

Item No.1

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No.262/2022

Sanjay Sharma

Applicant

Versus

Union of India & Ors

Respondents

Date of hearing: 10.05.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Harsh Vardhan Kedia, Mr. Shaz Khan and Mr. Talha Abdul Rahman, Advocates

ORDER

1. The applicant, a journalist with an illustrious profile as highlighted, has statedly filed the present application in the larger public interest, seeking urgent intervention and directions from this Hon'ble Tribunal for the protection of environment and ecology in the following terms as prayed for:-

“ i) Direct the Respondents to ensure that proper Covid-19 protocol is followed for the disposal of the Covid-19 impacted human corpses, with such suitable amendments that an expert committee appointed by this Hon'ble Court may suggested and as directed by this Hon'ble Court.

ii) Direct the Respondents to devise permanent mechanisms to regulate disposal of dead bodies into the rivers, and issue directions to incentivize resort to crematorium to give effect to the fundamental right to decent burial and cremation;

- iii) Direct Respondent No. 4 & 5 to ensure a proper and complete health checkup of those living near the river beds where the human corpses are buried / set afloat and ensure their proper treatment;*
- iv) Direct Respondents No. 4 & 5 to identify the individuals dependent on the rivers for their livelihood whose right to livelihood is impacted on account of disposal of dead bodies in the river Ganga;*
- v) Direct the Respondents to initiate immediate corrective action and identify the areas where the corpses are buried on the river beds; and to ensure proper cremation of the bodies so buried, in light of the Report of Seven IITs by improving cremation facilities;*
- vi) Pass such other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case."*

2. The applicant has acknowledged that after the nation was hit by the Covid-19 pandemic, nation- wide lockdowns were imposed in order to curb the spread of the virus and Various precautionary and safety measures were announced to check the contagion of the Covid-19 virus. In view of the detrimental effect an infected human corpse could have on the environment and human lives, the Ministry of Health and Family Welfare, Union of India issued Standard Operating Procedure/ Directions titled "COVID-19: GUIDELINES ON DEAD BODY MANAGEMENT", based on the then epidemiological knowledge about the Covid-19 virus. The National Human Rights Commission (NHRC), in view of the rights guaranteed under Article 21 of the Constitution and keeping in view the large number of deaths because of the Covid-19 pandemic and challenges in the management of the dead bodies, issued an "Advisory for Upholding the Dignity and Protecting the Rights of the Dead". As per the press release issued by the Press Information Bureau (PIB) the Centre had directed States to prevent dumping of dead bodies in Ganga and

focus on their safe disposal and providing support for ensuring dignified cremation. The press release also referred to steps taken to prevent dumping of dead bodies in river and burying of dead bodies in sand along the river, launching of suitable awareness generation program and extending financial support for cremation. However the applicant has claimed that the same have remained on paper without implementation on ground.

3. While referring to news reports regarding Covid-19 infected dead bodies being dumped in the river Ganga and also being buried along the river, the applicant has submitted that the Covid-19 pandemic is far from over, and it is uncertain when it will resurrect – despite vaccination. The issue of throwing dead bodies in the river needs to be tackled from environmental point of view and standing directions need to be issued and followed. In respect of COVID, the situation in the rural parts of India continues to be grim where the RT- PCR tests are at a bare minimum and poverty is forcing people with limited means to float the corpses of their family members in rivers or to bury them near the river beds. Even though now mortality has gone down, but preventive and curative steps are required to be taken for avoidance and management of such a situation in the future. Since rotting bodies may have had an impact on the health of those living along the rivers, curative steps are required to be taken their complete health check-up and proper treatment.

4. Grievance of the applicant is also that he made representation dated 24.05.2021 to the respondents but no action has been taken on the same.

5. Learned Counsel for the applicant has reiterated the factual and legal submissions made in the application for intervention by this Tribunal.

6. We are of the considered view that this case, which is stated to have been filed by the applicant on account of the flagrant violation of the statutory norms by the instrumentalities of the State whose lackadaisical attitude in attending to the victims of the COVID-19 pandemic and their failure in assisting the families of those succumbing to this pandemic by providing them decent funeral/ cremation is forcing them to either float the corpses in rivers including the holy river Ganga, or forcing them to bury the said corpses on the river beds, also raises the issue of creating public awareness by all instrumentalities of democratic form of government particularly the electronic and print media and not just the agencies of government/instrumentalities of State and the more important issue of public participation for the cause of preserving and improving environment, which is not only the statutory obligation of the State but also fundamental duty of all the citizens who collectively known as “we the people of India” constitute the State and confer authority on all its instrumentalities and legitimacy to the working thereof. The case also raises the questions of adequacy and efficacy of measures/steps already taken and further measures/steps required to be taken to deal with the issues.

7. In view of the averments made in the application, we consider it appropriate to seek reports from Additional Chief Secretary (Home) and Additional Chief Secretary/Principal Secretary (Health), Governments of Uttar Pradesh and Bihar respectively to submit factual verification reports as to the following aspects:

- (i) How many dead bodies were documented/found (ai) to have been floating in river Ganga and (b) to have been buried on the river bed in the States of Uttar Pradesh and Bihar before Covid 19 in the years 2018 and 2019 and after Covid 19 in the years 2020, 2021 and till 31.03.2022?
- (ii) In how many cases financial support was extended by Governments of Uttar Pradesh and Bihar respectively for cremation funeral or burial of the dead bodies?
- (iii) What steps were taken for creating public awareness and promoting public participation for preventing floating of dead bodies in river Ganga or their burial in or near the river bed?
- (iv) Whether any criminal case was registered and any prosecution was launched against any person for violation of the guidelines for management of dead bodies covid infected or otherwise?
- (v) Whether there was any violation of environmental norms and, if so, the details of the remedial measures taken may be furnished?

8. Report may be furnished by Additional Chief Secretary (Home) and Additional Chief Secretary/Principal Secretary (Health), Governments of Uttar Pradesh and Bihar respectively within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

9. List the matter for further consideration on 04.08.2022.

10. In the meanwhile notice of the petition be also issued to the respondents for filing their replies with reference to the material averments made in the petition besides their observations/recommendations regarding steps taken/to be taken.

11. The applicant is also directed to file his affidavit giving suggestions regarding creating of public awareness by the media, promoting public participation and involvement of civil society for the cause and improving efficacy of steps already taken and modalities of steps required to be taken.

12. A copy of this order, along with a copy of the application and its enclosures be forwarded to Additional Chief Secretary (Home) and Additional Chief Secretary/Principal Secretary (Health), Governments of Uttar Pradesh and Bihar respectively by e-mail for compliance.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

May 10, 2022
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AG