

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. -
2510 of 2023

Petitioner :- In Re (Suo Moto)

Respondent :- State of U.P.

Counsel for Petitioner :- In Reference

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ajay Bhanot, J.

We take suo moto cognizance of a newspaper report published in the Times of India.

The newspaper report discloses that the skeletal remains of a woman are locked up in an Etawah morgue for the past three years. The identity of the body is disputed. A family has claimed that the body of the said deceased person is of their missing daughter-Rita. The DNA report according to the newspaper does not give any conclusive opinion.

The respondents-State authorities as well as Police authorities shall obtain detailed instructions disclosing the stand of the State on the following issues:

I. The time period in which the last rites of a body in a morgue are conducted as per practice and the cause for delay in this case.

II. Whether any rules hold the field which oblige the State authorities to perform last rites of a body in a morgue within a stipulated period of time?

III. The details of the investigations and the timeline of events from the preservation of the body in the morgue till date shall be adverted to in the instructions.

IV. The case diary and the status of the investigations shall also be revealed in the instructions. This will include the date on which the samples were extracted and sent to the Hyderabad-based Forensic Science Laboratory for DNA profiling and the date of the DNA report.

A Single Judge Bench of this Court of which one of us (Ajay Bhanot, J.) was a member in **Sumpurnanand v. State Of U.P. and 2 Others**¹ while considering the right of reputation of dead persons held :

“69. A system of law is to be judged not merely by the manner it treats the living, but also by the regard, it gives to the dead. Reputation is indivisible. Indivisibility is an essential attribute of reputation. There is no distinction between the reputation of the dead and the living. This is the quintessence of the concept of reputation. Any bifurcation like the reputation of the dead and the reputation of the living would deprive reputation of its content and deny it any meaning. Death shows the insignificance of life. Reputation testifies to the significance of life. If the reputation of the dead is not protected, the reputation of the living is not safe. If the reputation of the dead is not valued, the reputation of the living has little worth.

74. The incapacity of the dead does not make them vulnerable to the

¹ (2018) 11 ADJ 550

living. The constitution is the guardian of the dead, the law is their counsellor and the Courts the sentinel of their rights. 75. The dead may be considered irrelevant by the living at times. But the dead are not abandoned by law and never bereft of constitutional protection.

76. The silence of the dead does not stifle their voice, nor does it extinguish their rights. The dead have their rights, no less tangible than the living. The law asserts their rights, Courts exalt their rights. The right to reputation is one such right.”

On the footing of the aforesaid rationale the right of reputation which flows from Article 21 of the Constitution of India was made accessible to dead persons. Prima facie the right to have mortal remains consigned to elements of nature by conduct of respectful last rites as per applicable customs also inhere in Article 21 of the Constitution of India.

Considering the importance of the matter, we deem it appropriate to appoint amicus curiae to assist the Court.

Shri Nitin Sharma, learned counsel is present before the Court, who is also the Secretary, High Court Bar Association, High Court, Allahabad and is appointed as amicus curiae in this case. Shri Nitin Sharma in the highest traditions of the Bar has agreed to conduct the case pro bono.

Put up this matter on 31.10.2023 in the list of fresh cases at 2 P.M.

A copy of the newspaper report published in the Times of India has been provided to Shri Nitin Sharma, learned

amicus curiae and Shri Amit Sinha, learned A.G.A.-I.

Order Date: 26.10.2023

Ashish Tripathi

(Ajay Bhanot, J.)

(Pritinker Diwaker, C.J.)