

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 1178 of 2019

1. Bhaiya Lal Gond S/o Shri Chaitu Gond Aged About 62 Years
R/o Village Kanhari, Gorakhpur, Tehsil Pendra-Road, P. S.
Gaurella, District Bilaspur Chhattisgarh

----- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary,
Department Of Health And Family Welfare And Medical
Education, Mahanandi Bhawan, Mantralaya, Atal Nagar,
Raipur District Raipur Chhattisgarh
2. State Of Chhattisgarh Through Collector, District Bilaspur
Chhattisgarh
3. Additional Collector Pendra-Road, District Bilaspur
Chhattisgarh
4. Chief Medical And Health Officer Bilaspur, Office At Shree
Vihar, Ashok Nagar, Sarkanda, Seepat Road, District Bilaspur
Chhattisgarh
5. State Of Chhattisgarh Through Collector, Raipur District
Raipur Chhattisgarh
6. Chief Medical And Health Officer Raipur, Office At Old
Directorate, Near D.K. Hospital, District Raipur Chhattisgarh
7. Dean Chhattisgarh Institute Of Medical Sciences Hospital,
Sadar Bazar, Bilaspur District Bilaspur Chhattisgarh
8. Dean Dr. Bhim Rao Ambedkar Memorial Hospital, Jail Road,
Opposite Central Jail, Moudhapara, Raipur District Raipur
Chhattisgarh

----- Respondent

For Petitioner

For Respondent/State

Shri Achyut Tiwari, Advocate

Shri Sudeep Verma, Dy. Govt. Adv.

Order On BoardByPrashant Kumar Mishra, J.18/06/2019

1. Petitioner has prayed for a direction to the State Government to pay compensation of Rs.10.00 lacs for the reason that his son namely; Gend Lal (since deceased) suffered bite by a stray dog/rabid dog on 7th October, 2018 and eventually died on 6th November, 2018.
2. Petitioner's son Gend Lal, aged about 38 years, suffered a dog bite at Tendumuda, Bilaspur, on 7th October, 2018. The treatment papers filed along with the writ petition issued by the Dr. Bhimrao Ambedkar Memorial Hospital, Raipur, a Hospital attached to the Medical College, Raipur, would manifest that the petitioner's son was diagnosed with '*Rabies encephalitis*' and he died in course of treatment on 6th November, 2018.
3. Petitioner's application for grant of compensation filed before the Additional Collector, Pendra Road on 18th February, 2019 was not considered, therefore, he has filed the present writ petition.
4. It is argued that in a similar matter i.e. *Shobha Ram v State of Chhattisgarh & Others*¹ this Court has directed the State Government to pay compensation of Rs.10.00 lacs to the husband of the deceased. In the case at hand, the petitioner has suffered death of his son due to bite by rabid dog/stray dog.

¹ WPC No.1856 of 2018 [decided on 10-10-2018]

5. In ***Shobha Ram*** (supra) this Court after placing reliance upon the decisions rendered in ***Anupam Tripathi v Union of India and Others***², ***Shakuntala v Govt of NCT of Delhi & Anr.***³, ***Sanjay Phophaliya v State of Rajasthan and Ors.***⁴ ***L.K. Koolwal v State of Rajasthan and Ors.***⁵, ***Milkmen Colony Vikas Samiti v State of Rajasthan & Ors.***⁶, ***Col. Dharamvir Kataria v Union of India and Others***⁷, ***D.K. Basu v State of W.B.***⁸, ***Nilabati Behera (Smt.) Alias Lalita Behera (Through the Supreme Court Legal Aid Committee) v State of Orissa and Others***⁹ and ***In Reference Court on its own motion (Regarding Death of Ku. Divya Verma, D/o Shri Ashok Verma due to Rabies) v State of Chhattisgarh & Another***¹⁰ as also by placing reliance upon the provisions of the Chhattisgarh Gram Panchayat (Sanitation, Conservancy and Prevention and Abatement of Nuisance) Rules, 1999 (henceforth 'the Rules, 1999') has held that if due to failure of the administration or the Gram Panchayat to control stray dogs and for that reason any member of the locality dies due to bite by rabid dog/stray dog the State Government would be liable to compensate the legal representatives of the deceased.
6. In ***Shobha Ram*** (supra) this Court has held thus in paras 20, 23 & 24 :

20. The Rules, 1999 thus obligates the Gram Panchayat to detain an unclaimed dog and destroy the said dog after three clear days. The Gram Panchayat

2 (2016) 13 SCC 492

3 WP (C) No.13771 of 2006 decided on 1-7-2009 [Delhi High Court]

4 AIR 1998 Raj 96

5 AIR 1988 Raj 2

6 AIR 2007 SC 1046

7 AIR 1999 Delhi 291

8 (1997) 1 SCC 416

9 (1993) 2 SCC 746

10 WP PIL No.24 of 2017 [Chhattisgarh High Court]

has failed to perform its duty under Rule 29 of the Rules, 1999, therefore, for failure of the Gram Panchayat to perform its statutory function, the said Gram Panchayat jointly with the State Government would be liable to compensate the petitioner.

21. xxx xxx xxx

22. xxx xxx xxx

23. In the matter of *In Reference Court on its own motion (Regarding Death of Ku. Divya Verma, D/o Shri Ashok Verma due to Rabies) v State of Chhattisgarh & Another* by order dated 22-8-2017 this Court, while entertaining the *suo motu* PIL, has allowed compensation of Rs.10,00,000/- to the mother of the deceased who died on account of attack by street dog. Prayer for modification of the said order subsequently rejected by order dated 12-9-2017.

24. In view of the above, I deem it appropriate to award compensation to the tune of Rs.10,00,000/- in favour of the petitioner minus (-) the amount already paid by the Government to the Hospital where the deceased obtained treatment. Petitioner would, thus, be entitled to a sum of Rs.8,50,000/- within a period of three months from the date of receipt of certified copy of this order.

7. Since the matter in issue is squarely covered by the decision rendered by this Court in *Shobha Ram* (supra), the present writ petition is allowed. The State Government is directed to pay compensation to the tune of Rs.10.00 lacs (Rupees Ten Lacs Only) to the petitioner, who is the father of the deceased, within a period of three months from the date of submission of certified copy of this order.

Sd/-

Judge
Prashant Kumar Mishra

Gowri