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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP NO.32190 OF 2019(O&M)

Date of Decision: 06.11.2019

Dr.Neeraj Sood

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM HON'BLE MR. JUSTICE ARUN MONGA

Present Mr.Atul Goyal, Advocate for the petitioner.
Mr. P.S.Bajwa, Additional A.G., Punjab.

ARUN MONGA, J (ORAL)

Inter alia, issuance of a writ in the nature of mandamus has been sought by the petitioner, who is a Physician and Specialist ENT Surgeon, commanding the respondents to frame policy / roster of the serving doctors in such a way that only an expert in the field of Forensic Medicine shall be permitted to perform the post-mortem in the Government Civil Hospitals in State of Punjab.

2. Petitioner submitted a representation dated 01.10.2019 (Annexure P1) to the respondents, but the same has not been adverted by them till date. Hence, the present writ petition.

3. Notice of motion.

4. On advance service of the copy of petition, Mr. P.S.Bajwa, Additional A.G., Punjab appears and accepts notice on behalf of the respondents.

5. Given the nature of order being passed, there is neither any

6. Learned counsel for the petitioner has drawn my attention to a Circular / Memo dated 03.10.2017 (Annexure P-6) issued by Director Health and Family Welfare Department to all Civil Surgeons in the State of Punjab about conducting the post-mortem in the cases of murder / suicide. It is borne out from the said Circular that an inquiry was conducted in the matter and the report furnished herein *inter alia* recommended that police should be sensitized in such cases and there is a need to ensure that in cases of murder / suicide, post-mortem should be conducted by a Specialist Forensic Team at the District / State level hospitals, in order to avoid any conflict in the finding of the post-mortem. Not only that, a subsequent Circular dated 08.05.2019 (Annexure P-7) issued by Additional Chief Secretary, Department of Medical Education and Research, State of Punjab in respect of conducting post-mortem examination in custodial deaths also states as below:-

“As per the recommendations from National Human Rights Commission circulated vide letter under reference from Secretary General, NHRC, New Delhi following recommendations should be practiced while conducting post-mortem examination in case of custodial deaths:-

a) The post-mortem examination should be conducted by a board of at least 3 doctors from 3 different institutions as the doctors from the same institutions are likely in some cases to be influenced by their senior members in the board, impeding independence of the other member; and

b) All doctors doing post-mortem must be holding a postgraduate degree in forensic medicine and must have at least an experience of 5 years in the speciality of post-mortem examination.

Above instructions are issued for strict compliance.”

7. A conjoint perusal of the instructions issued by Director Health Services and the Additional Chief Secretary leaves no manner of doubt that the same are to be strictly complied with as more particularly stated in the Instructions dated 08.05.2019 (Annexure P-7).

8. In the aforesaid premise, the prayer of the petitioner seems to have already been addressed and suffice to say that the respondents are bound to comply with the said instructions in *letter and spirit*. It is expected of the respondents to ensure that the duties of the Surgeons conducting the post-mortem are assigned as per a roster in every District maintained by the Civil Surgeon in accordance with the requisite expertise envisaged in the Circulars *ibid*.

9. Disposed of in the above terms.

06.11.2019
mamta

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No