

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-5104-2020 (O&M)
Date of Decision: 07.08.2020

Gurcharanjit Singh and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rajiv Malhotra, Advocate and
Mr. Satinderdeep Singh Boparai, Advocate,
for the petitioners.

Mr. H.S. Sitta, AAG, Punjab.

HARNARESH SINGH GILL, J.

The case is taken up for hearing through Video Conferencing.

Short report by way of affidavit of the Deputy Commissioner, Amritsar, has been filed through e-mail. Print out of the same is taken on record.

During Covid-19 Pandemic outcry, when the entire world is facing huge crisis to the humanity; the spread of the Corona Virus is at its peak; the death toll is rising day by day and further the causes of spread are scientifically unascertained and seemingly regarding its vaccine, there is no light at the end of the tunnel and the world is lost in a locked cage, the key of which are thrown away, the petitioners have come up before this

Court to redress their grievance alleging swapping of the dead bodies at the hospital at Amritsar.

The situation posed in this petition presents a grim picture, where though the petitioners seem to have hedged their bets by raising serious allegations, yet seen in the larger perspective and the mess created in the hospitals, be it for the fear of transmission of the disease or want of proper medical health care facilities, this Court is called upon to enter adjudication of the grievances raised.

The petitioners have filed the present writ petition for issuance of a writ in the nature of Habeas Corpus directing respondent Nos. 2 to 5 to produce the father of the petitioners, namely, Pritam Singh, who was admitted as a patient of Corona Virus at Guru Nanak Dev Hospital, Amritsar.

As per the facts on record, petitioner No.2 along with his other family members, including his father Pritam Singh, had been diagnosed with Corona Positive on 01.07.2020 and they were admitted to Rayat Bahra University (Corona Isolation Centre) on 02.07.2020 at Hoshiarpur. Later, petitioner No.2 and his father had been shifted to Guru Nanak Dev Hospital Amritsar on 05.07.2020 and the father of the petitioners was shifted to ICU on 06.07.2020.

Later on, petitioner No.2 was informed by the hospital authorities at Guru Nanak Dev Hospital, Amritsar that his father was no more and he breathed his last on 11.07.2020. Thereupon, the petitioner ran towards ICU, where he found his father alive. This goof-up was brought to the notice of the hospital authorities, who abruptly discharged petitioner No.2

from the hospital without any further testing. On 18.07.2020 at 1210 hours, the daughter of petitioner No.2 had received a call that father of the petitioners had breathed his last on 17.07.2020 at 2300 hours.

Thereafter, the petitioners had received the mortal remains of their father at Mukerian, which were transported in the Ambulance by the health staff. The petitioners' family was ready with PPE kit to perform the last rites of their father, Pritam Singh, but upon seeing the dead body, a suspicion arose in their mind as to the dead body not being of their father, reason being the length of the body was around 5 feet few inches, whereas their father was 6 feet tall. Upon this, the petitioners insisted to see the face of their father for the last time and they were shocked to learn that the dead body was not of their father and it was of one lady, whose name had later on transpired as Padma. Upon their having alleged a foul play, the dead body was shifted to the Mortuary at Mukerian.

With these averments, the petitioners have averred that there are huge irregularities and illegalities in the hospitals treating the Covid-19 patients inasmuch as the present case is one of the glaring examples of such negligence on the part of the hospital authorities.

This Court, vide order dated 29.07.2020, called upon the State to inform this Court about the proceedings initiated by the inquiry officer.

In compliance thereof, a short report dated 06.08.2020 by way of affidavit of the Deputy Commissioner, Amritsar, has been filed. In the said report, the initiatives taken

in the matter have been detailed. In para No.5 of the said report, it has been stated as under:

“It is submitted that the undersigned has been tasked with conducting a Magisterial Enquiry into the swapping of the bodies of Shri Pritam Singh and Smt. Padma by the Deputy Commissioner, Amritsar vide his order no-Covid-19/2908-2912 dated 18.07.2020. The undersigned formally started the enquiry on 21.07.2020 and visited the Guru Nanak Dev Hospital and the mortuary. The doctors, paramedics and other staff on duty were also questioned. Thereafter, on 27.07.2020 & 28.07.2020 the family members of both the deceased as well as the staff detailed for performing the cremation (detailed by the administration of Hoshiarpur and Amritsar) were called to this office for recording their statements. It is further submitted that the doctors and paramedics and other hospital staff were called to record their written statements on 30.07.2020 and 31.07.2020. It is pertinent to mention that the relatives of Smt. Padma have requested for some time to submit their written statement and so has one of the Nursing Staff citing health reasons. Hence, the enquiry is under way and the undersigned is making all efforts to complete it in a timely manner.”

Today, during the course of hearing, learned counsel appearing for the petitioners have vehemently contended that the petitioners are sanguine and hopeful that their father is still alive undergoing treatment in the hospital. It is further argued that the enormity of the disease is as such that in this atmosphere of fear and danger, even the health authorities are not sure as to what is to be done with the Covid-19 patients. In this background, it is argued that the unscrupulous and bad elements are having hands in glove with the hospital authorities and are involved in the business of transplanting of the organs of the dead bodies of Covid-19 effected patients to the other

patients admitted in the hospitals. In this way, they are playing with the lives of those who are unaffected by Covid-19, as the moment the infected organs are transplanted, there is hardly any chance of their survival as not only their co-morbidity will give in but the infected organs will do a complete damage.

When confronted with the already undergoing inquiry process, learned counsel for the petitioners state that the inquiry being conducted by the SDM, Amritsar-II is going at a snail's pace and the administrative authorities having been already over-burdened, there are no chances of such inquiry proceedings coming to a logical end any time soon. It is further pointed out that even if the inquiry is concluded regarding the swapping of the dead bodies, there would be no logical and legalistic conclusion on the transplantation of the infected organs of Covid-19 patients to the non-Covid 19 patients. It is, thus, prayed that the matter may be inquired into by some independent agency.

On the other hand, the learned State counsel has vehemently opposed the prayer made by the petitioners. It is argued that while discharging the administrative functions, there must not be any interference, unless there are circumstances to show utter negligence and glaring irregularities/illegalities in the matter. It is further argued that the SDM, Amritsar-II is conducting the inquiry and once the inquiry report is submitted, necessary and appropriate action would be taken against the guilty persons. Thus, a prayer is made for dismissal of the present petition.

I have heard the learned counsel for the parties and have gone through the case file, including the short report submitted by the Deputy Commissioner, Amritsar.

There is no denying the fact that Covid-19 pandemic has left the world bleeding and shattered. The limitations of the health authorities keeping in view the facilities available can be understood and there cannot be any compelling directions to perform the duties beyond the resources and facilities available. As a matter of fact, during this pandemic, we have learnt that the Doctors, Medics, para-medical staff and other health workers are our real heroes, which is why we call them Corona Warriors. Thus, any allegations touching the very integrity of these people are to be dealt with great circumspection, caution and care.

There is a well-known adage that people may lie, but the facts do not. In the instant case, the allegations regarding the swapping of the dead bodies are, *prima facie*, established. There is nothing to the contrary in the short report submitted by the Deputy Commissioner, Amritsar. By observing as such, this Court is not commenting upon the dedication, devotion, faithfulness towards the duties and integrity of the hospital staff, but the fact remains that some negligence seems to have been done at some level and the same is required to be fixed.

In normal circumstances, this Court would have waited for the SDM, Amritsar-II to conclude the enquiry proceedings and submit his report. However, this Court is also conscious of the fact that there are widespread reports in the print and electronic media regarding the racket involved in

transplanting the organs of the dead bodies, including the Covid-19 fatalities. This is a serious cause of concern and needs to be properly addressed. The gang of the people, if any, involved in such inhumane and barbaric act is liable to be brought to book and the system is required to be cleaned and brushed up, restoring the faith of the common man in the system.

In view of the above, I deem it appropriate to transfer the inquiry proceedings pending before SDM, Amritsar-II, to the Commissioner of Police, Amritsar, forthwith. The Commissioner of Police, Amritsar, shall conduct a detailed inquiry into the aforesaid aspects i.e. swapping of dead bodies of Covid-19 patients at Guru Nanak Dev Hospital, Amritsar, and the alleged transplantation of organs of Covid-19 patients to the non-Covid patients. The inquiry be concluded within a period of one month and report be submitted to this Court.

Disposed of in the aforesaid terms.

07.08.2020
ds

(HARNARESH SINGH GILL)
JUDGE

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