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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 7th February, 2020

+ **W.P.(C) 6509/2017**

PRAVASI LEGAL CELL

..... Petitioner

Through: Mr. Jose Abraham and
Mr. M.P. Srivignesh, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Suparna Srivastava, Central Govt.
Standing Counsel for R-1 and 2 with Mr. Tushar
Mathur, Adv.
Mr. Dhruv Dwivedi and Mr. Abhishek Gupta,
Advs. for R-3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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07.02.2020

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 6509/2017

1. This Public Interest Litigation has been preferred with the following prayers :

“(a) *Declare that the Rule 43 of the Aircraft (Public health) Rules, 1954 is illegal and unconstitutional;*

(b) *Issue an appropriate writ or order quashing the Rule 43 of the Aircraft (Public health) Rules, 1954 and*

(c) *Pass such other further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that main grievance ventilated by this petitioner is about the advance 48 hours intimation whenever any dead body or human remains or ashes of cremated bodies required to be given to the Health Offices of the airport of arrival in terms of Rule 43 of Aircraft (Public Health) Rules, 1954. For the ready referenced, Rule 43 of the Aircraft (Public Health) Rules, 1954 enacted under Aircraft Act, 1934 reads as under :

"43. The consignee as well as the air transport service shall give to the Health Officer of the airport of arrival advance intimation of at least 48 hours, of the importation of the dead body or human remains or ashes of cremated bodies. Provided that nothing in this rule or in rules 44 to 47 shall apply to the dead body of a person who dies during flight before arrival of the aircraft in India. The Commander of the aircraft shall send, if the aircraft is equipped with wireless, a radio report to the Health Officer of the airport, where he proposes to land in India, regarding the occurrence and, if possible, cause of death. On landing of the aircraft no passenger or member of the crew shall disembark until

appropriate sanitary measures have been taken by the Health Officer of the airport.”

3. Learned counsel appearing for the respondent no. 1 submits that detailed counter affidavit has been filed by the respondent no.1. Paragraphs 6 and 7 of the said affidavit read as under :

“6. Furthermore, it will be pertinent to mention that Airport Health Offices usually are in the practice of providing health NOC of human remains well before in time as soon as the following documents are received at the concerned Health Office :

- 1) Death certificate by the health department of the concerned country- clearly mentioning the cause of Death.*
- 2) Embalming certificate*
- 3) NOC from the Indian High Commission of the concerned country.*
- 4) Cancelled Copy of the passport*

7. Over and above, if required by the airlines, go ahead of the importation of the dead body/human remains is communicated before the stipulated time provided the related documents are in order.”

4. In view of the aforesaid counter affidavit, it is submitted by learned counsel for the respondent no. 1 that advance intimation of 48 hours is not a *sine qua non* provided concerned person is supplying the aforesaid four documents as stated in paragraph 6 of the counter affidavit.

5. Thus, in view of the aforesaid submissions and looking at aforesaid paragraphs 6 and 7 of the counter affidavit filed by respondent no.1, the condition of advance intimation of 48 hours provided under Rule 43 of the Aircraft (Public Health) Rules, 1954 can always be waived by the respondents.

6. Hence, we see no reason to entertain this writ petition and the same is therefore disposed of in view of the aforesaid observations.

CHIEF JUSTICE

C.HARI SHANKAR, J.

FEBRUARY 07, 2020/kr



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