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

Date of decision: 18th March, 2021

+ **W.P.(C) 3371/2021**

ANJU SHARMA

..... Petitioner

Through: Mr. Subhash Chandran Kr. and Mr.
Sawan Shukla, Advocates (M:
8882375011).

versus

UNION OF INDIA THROUGH: ITS SECRETARY
& ANR.

..... Respondent

Through: Mr. Ripu Daman Bhardwaj, CGSC
and Mr. Kushagra Kumar, Advocate
with Mr. Vishnu Sharma, Director
CPV, MEA (M: 9818030700).

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present is an unfortunate case preferred by the Petitioner - Ms. Anju Sharma, seeking early return of the mortal remains of her husband - Mr. Sanjeev Kumar. The deceased was an Indian migrant working in Saudi Arabia and the holder of an Indian passport who passed away on 24th January, 2021 in Saudi Arabia due to a cardiac arrest. As per the Petitioner, due to an error in translation of the deceased's death certificate, which mentioned the deceased's religion as 'Muslim', the deceased was buried in Saudi Arabia as per Muslim rites. Since then, the Petitioner has been making various representations to the Respondents for exhuming the mortal remains of the deceased and for transporting the same back to India on an urgent and time-bound basis.

2. The matter was considered on 16th March 2021, on which date, the following directions were issued:

“6. Considering the nature of the matter and the fact that the Petitioner has been approaching the various authorities since January, 2021, adequate steps ought to have been taken by now for ensuring the transportation of the mortal remains of the deceased. Accordingly the concerned officer from the Ministry of External Affairs, not below the rank of Deputy Secretary, shall join the proceedings online in order to apprise this Court of the steps taken and the current status in respect of return of the mortal remains of the deceased to his family.”

3. Further to the last order dated 16th March, 2021, Mr. Vishnu Kumar Sharma, Director, Consular, Passport and Visa (CPV) Division, Ministry of External Affairs (*hereinafter*, ‘MEA’) has appeared and has apprised the Court of the steps taken, as also the current status of return of the mortal remains of the deceased to his family. It is his submission that the death of the deceased took place on 24th January, 2021 and the death certificate was obtained by the employer of the deceased i.e., Mr. Salem Abdullah Saad Al-Saqar. The translation of the death certificate in which the error appeared that the deceased was Muslim is also stated to have been got done by the employer.

4. According to Mr. Sharma, usually, whenever the concerned Authority in Saudi Arabia informs the Indian Consulate of the death of an Indian citizen, a protocol is followed in which until and unless a No Objection Certificate (NOC) is issued by the Indian Consulate, the body of the deceased is not buried by the local authority. However, in the present case, the burial took place on 17th February, 2021 without informing the Indian

Consulate, which could be due to the protocol being followed during COVID-19. It is also informed that the deceased has been buried in a non-Muslim cemetery. Immediately upon being informed of the burial on 18th February, 2021, the Indian Consulate took steps by writing communications dated 21st February, 2021, 24th February, 2021 and 7th March, 2021 to the Ministry of Foreign Affairs, Kingdom of Saudi Arabia, Jeddah as well as to the Governor of Jazan Region, Kingdom of Saudi Arabia.

5. Mr. Sharma further submits that the Indian MEA officials, as also the Indian Consulate in Jeddah continue to be in touch with the concerned authorities in Saudi Arabia for expediting the exhuming of the mortal remains of the deceased and for transporting the same to India. He assures the Court that the said authorities would continuously be followed up with to expedite the same, however, considering the fact that the mortal remains of the deceased are in a foreign country, no specific timeline can be given as that depends on the response given by the concerned authorities in Saudi Arabia.

6. It is further submitted before this Court that the employer has deposited some compensation/monetary payment for the family of the deceased in the bank account of the Indian Consulate in Jeddah. Payment of the same has been couriered to the District Collector in Una, Himachal Pradesh, where the family of the deceased resides. Details of the dispatch shall be given by tomorrow to Id. counsel for the Petitioner. The Petitioner may collect the same from the District Collector in Una, Himachal Pradesh. If there is any delay in receiving the same, Id. counsel for the Petitioner may contact the MEA official appearing before Court.

7. It is also submitted on behalf of the Petitioner that the Indian Consulate may assist the Petitioner's family in coordinating with the deceased's employer for checking if any other monetary benefits are payable to the Petitioner. Considering the nature of the matter, the officials of the Indian consulate would contact the employer and confirm to the counsel for the Petitioner if any further payments are due to be made. Details of the Consulate official in Jeddah who is dealing with the employer may also be provided to Id. Counsel for the Petitioner.

8. In view of the fact that no timelines are being given by the MEA official appearing today, in order to emphasise on the sensitivity of the issue, the MEA official shall also update the status of this case and seek cooperation from the Deputy Chief of Mission of the Royal Embassy of Saudi Arabia located in New Delhi.

9. Let a copy of order dated 16th March, 2021 as well as today's order be sent to the Deputy Chief of Mission of the Royal Embassy of Saudi Arabia, New Delhi, who is requested to extend the valuable cooperation of the Embassy for obtaining a timeline and communicating the same to the MEA.

10. List on 24th March, 2021 at Top of the board.

11. Copy of today's order be released urgently post lunch in order to enable Mr. Sharma to do the needful and coordinate with the Deputy Chief of Mission of the Royal Embassy of Saudi Arabia, New Delhi.

PRATHIBA M. SINGH
JUDGE

MARCH 18, 2021
MR/T