

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12243 of 2021

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Shadab Anis S/o Md. Anisur Rahman Resident of R-8, Talkhapur, Razanagar
New Colony, Dumra, Sitamarhi, Bihar- 843301.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Principal Secretary, Department of Health, Government of Bihar.
2. Nalanda Medical College and Hospital (NMCH), Patna Through its Director, Patna- 800007, Bihar.
3. Indira Gandhi Institute of Medical Science (IGIMS) Through its Director, Patna- 800014, Bihar.
4. The Union of India through its Secretary Ministry of Health and Family Welfare, New Delhi- 110011.
5. The Chief Medical Officer-cum- Civil Surgeon Sitamarhi.
6. The Chief Medical Officer-cum- Civil Surgeon Patna.
7. The Executive Director State Health Society, Bihar, Sheikhpura, Patna.
8. The Director Advance Medical Care Centre, Sitamarhi.
9. COVID Dedicated Centre Through its Head, ITI Mahila, Sitamarhi.
10. The In-charge Medical Officer Palm View Hospital, Jagdeo Path, Patna- 800014.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Akanksha Malviya,Advocate
For the Respondent/s	:	Mr.S.D. Yadav, AAG-9
	:	Mr.Nagendra Kimar, AC to AAG-9
For the IGIMS	:	Mr.Sunil Kr. Singh,Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 28-09-2022 The present writ petition has been filed seeking the following reliefs:-

“(i) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondent to constitute an independent inquiry committee comprising of senior health experts not



below the rank of medical superintendent of hospitals other than IGIMS and NMCH, to inquire into the reason of death of the petitioner's mother which was a result of negligence and mismanagement on the part respondent authorities and to further submit a report before this Hon'ble Court within a time bound manner.

(ii) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing respondent no. 2 & 3 to submit a detailed internal enquiry report, death summary report along with all the prescription report which shows the treatment prescribed and administered to the patient i.e., the petitioner's mother before this Hon'ble Court and a copy of all this document shall be given to the petitioner as well.

(iii) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondents to look into the aspect of medical negligence which resulted in the death of the patient whose life would have been saved, if timely medical assistance would have been provided to the patient by following the Guidelines issued by Ministry of Health and Family Welfare, Government of India and Standard Treatment Protocol for Covid-19 in true letter and spirit.

(iv) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or



order(s) or direction(s) directing the respondents to take disciplinary action against the concerned medical officials who were found negligent in following the prescribed National Clinical Management Protocol for Covid-19 as per following the due procedure of law and provisions of Code of Medical Ethics Regulations, 2002 and guidelines of Medical Council of India and ICMR.

(v) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondent authorities to declare the death of the petitioner's mother as Covid-19 death as per the guidelines and to immediately issue the Death Certificate of Late Parween Nehar to the petitioner.

(vi) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondent authorities to pay compensation and damages to the family of Late Parween Nehar to the tune of Rs.1 Crore due to non-compliance and non-observance of the guidelines for Standard Treatment Protocol for Covid-19 and guidelines issued by Ministry of Health and Family Welfare and ICMR which resulted in the loss of life of the petitioner's mother and which further endangered petitioner's life as the concerned medical officials acted negligently in discharging their duties with a reasonable degree of care, skill and knowledge to provide medical treatment and services to the petitioner's mother.



(vii) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondent authorities to pay Ex-Gratia Amount as Covid-19 compensation to Covid Victim's family.

(viii) For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the Respondent No.9 to submit a detailed report on denial of emergency medical services to the petitioner's mother when they approached the respondent's hospital, before this Hon'ble Court within a time bound manner and to take disciplinary action against those who are found negligent in discharging their duty and for not following the Covid-19 management protocol."

Though counter affidavits have been filed in the present writ petition by the various authorities including Nalanda Medical College and Hospital as also Indira Gandhi Institute of Medical Sciences, however, a three-men committee report dated 08.09.2022, has been brought on record, from which it is not clear as to whether ex-gratia amount, by way of compensation, in lieu of the alleged death of the mother of the petitioner on account of Covid-19 infection, is payable or not since the matter may require further probe.

In view of the disputed question of facts involved in



the present case, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to approach the Additional Chief Secretary, Department of Health, Government of Bihar, Patna, by filing appropriate representation, within a period of four weeks from today, who shall decide the case of the petitioner with regard to grant of compensation/ex-gratia amount on account of death of his mother due to Covid-19 infection, within a period of 12 weeks, thereafter.

With the aforesaid directions, the writ petition stands disposed off.

(Mohit Kumar Shah, J)

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