

22.03.2022
Court No. 19
Item no.16
CP

W.P.A. No. 9198 of 2020

Rekha Barman & ors.
Vs.
The State of West Bengal & Ors.

Mr. Probal Kumar Mukherjee, Sr. Advocate
Mr. Arnab Mukherjee
Mrs. Madhurima Mukherjee
...for the petitioners.

Mr. Debanik Banerjee
Mr. A. Ganguly
...for the respondent no. 6.

Mr. Alok Ghosh
Mr. D. Chakraborty
Mr. Anand Farmania
...for the K.M.C.

Mr. Debjit Mukherjee
Ms. Rupsha Chakraborty
....for the State.

The writ petition has been filed on two grounds. That the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation'), has refused to grant a death certificate of late Paresh Chandra Barman, a retired judicial officer of the State of West Bengal, who died due to Covid and the cremation was done by the corporation and not by the family members in accordance with the advisories and circulars which had been issued by

the State of West Bengal, under the Disaster Management Act.

The second contention is that the State of West Bengal had not issued the family pension to the petitioner no. 1, the widow, in the absence of a death certificate.

With regard to the non-payment of the family pension to the petitioner no. 1, this court finds that the State Government has already issued the family pension, during the pendency of the dispute.

Mr. Mukherjee, learned senior advocate appearing on behalf of the petitioners, submits that the second prayer does not survive in view of the receipt of the family pension by the petitioner no. 1.

With regard to the allegations against the corporation, it is submitted by Mr. Ghosh, learned advocate for the corporation, that the death certificate issued by the KPC Medical College & Hospital does not indicate the date of death as the person was brought to the hospital, dead. The exact date of death was not available from the certificate of the hospital. As a result of which, the corporation was unable to put in the date of the death in the register. The death certificate was not issued for such reason. He also refers to a letter dated October 31, 2020, from which it appears that the Chief Municipal Health Officer had agreed to issue the death

certificate as per the contents the death certificate of the hospital, i.e., 'Brought in Dead on 29.07.2020'.

Learned advocate appearing on behalf of the KPC Medical College & Hospital, submits that the date of death will be treated as July 29, 2020 when the person was brought in dead and the same is apparent on the death certificate itself.

All the heirs and the legal representatives of the deceased judicial officer are before this court. There is no controversy amongst them with regard to the date of death and the factum of death. The State Government, upon being satisfied with the authenticity of the service records of the said deceased, has already issued pension in favour of the petitioner no. 1.

This court does not find any reason as to why the corporation cannot issue a death certificate by recording the date of death as July 29, 2020, as available in the death certificate issued by the KPC Medical College & Hospital.

The corporation may include a rider at the bottom of the death certificate that the said certificate was being issued on the basis of the information given in the death certificate issued by the KPC Medical College & Hospital.

As this is a very unfortunate situation when the deceased died due to Covid in the absence of his

family members, the original medical certificate and other documents are not with the family members. Thus, this court permits the petitioners to approach the corporation with a copy of the death certificate issued by the KPC Medical College & Hospital along with the server copy of this order and the corporation upon recording the death of the deceased in its register, shall issue necessary certificate as directed by this court by incorporating the date of death as July 29, 2020. A rider at the bottom of the certificate may be inserted that the date is given as per the Hospital's certificate. It is not for the Corporation to dwell further on the expression "Brought Dead".

The entire exercise shall be completed within a period of one month from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

The records produced by the corporation and the State respondents are taken on record.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)