

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 21409 of 2015

Sushanta Phatkar

....

Petitioner

Mr. Omkar Devdas, Advocate

-versus-

State of Odisha and Others

....

Opposite Parties

Mr. Debakanta Mohanty, Addl. Govt. Advocate

Mr. Bibhu Prasad Tripathy, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

ORDER

03.11.2022

Order No.

05. 1. This matter concerns an unfortunate maternal death of the wife of the Petitioner for which he has filed this petition in which *inter alia* he seeks compensation.
2. In similar circumstances, in W.P.(C) No.11860 of 2015 (***Sambara Sabar v. State of Odisha***), this Court has today passed a detailed judgment on the basis of an enquiry report of the Odisha State Commission for Women (OSCW).
3. As far as the present case is concerned, there has to be a similar report before directions can be issued for payment of compensation.
4. With a view to obtaining an objective assessment of the materials on record the Court requests the OSCW to assist it in the task. Accordingly, the following directions are issued:

(i) A complete set of the entire writ petition paperbook will be made available by the Registry of this Court to the Secretary, OSCW, Toshali Plaza, Satyanagar, Bhubaneswar not later than 1st December, 2022;

(ii) The OSCW will register the case as a complaint/claim petition under Section 10 (1) (d) (ii) and (iii) of the Odisha State Commission for Women Act, 1993 and after notice to the parties will proceed to constitute an appropriate enquiry team to examine the papers and also visit and record statements of the Petitioner and his family members, the concerned treating doctors, the place of treatment, the medical case record and make an assessment as to the veracity of the claims of either party on the basis of the materials gathered. The OSCW can also take the assistance of a qualified medical professional for making its assessment.

(iii) Based on the findings in the enquiry report, the OSCW will in accordance with the procedure under the Odisha State Commission for Women Act, 1993 and if the circumstances warrant, make a recommendation to the Government of Odisha for payment of compensation and in light of the order of this Court in *Sambara Sabar v. State of Odisha* (*supra*)

(iv) The OSCW will endeavour to complete the enquiry and submit its recommendations to the State Government within a period of six months and in any event not later than 1st June 2023, making a copy of its report and order simultaneously available to the Petitioner.

5. If aggrieved by the report of the OSCW or in the event of the State Government not implementing the recommendation of the OSCW regarding payment of compensation, it will be open to the Petitioner to approach this Court again for reliefs.

6. The petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules. A certified copy of this order be delivered forthwith to the OSCW.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Jena/Secy.