IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8837 of 2023

CNR No. BRHC010479252023

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Geeta Devi Srivastava W/o nagendra Prasad Resident of Mohalla-Chowk Sikarpur, Nala Par, P.S.-Chowk, Patna City, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Panta.
2. Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. Commissioner, Patna Bihar
4. Collector, Patna. X
5. Civil Surgeon Cum Chief, Medical Officer, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ebrahim Kabir, Advocate
For the Respondent/s : Ms. Akrity Aishwarya, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 29-10-2026 Heard Mr. Ebrahim Kabir, learned counsel for the petitioner and Mrs. Aakriti Aishwarya for the State.

2. The present writ petition has been preferred:

"for issuance of an appropriate writ/order or direction commanding the respondents to grant compensation of Rs. 04 Lakh to the petitioner whose son Deepak Kumar has died due to Covid-19 on 17.04.2021 as per provision of the State Govt. which has till date not

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been given to her despite making claim in prescribed performa on 23.06.2021 which is highly illegal and discriminatory or for any other order or orders as your lordships may deem fit and proper under the circumstances of the case."

3. The matter relates to death of the petitioner's son Deepak Kumar who according to the lady died of COVID-19 (after he went in home isolation) on **17.04.2021**. The writ petition has been filed for grant of Rs.4,00,000/- compensation amount in view of the decision taken by the State Government.

4. The contention in the writ petition is that the private laboratory took the blood sample of the deceased when he was alive, the report came subsequently i.e after his death on **19.04.2021** confirming that he has COVID-19.

5. Armed with the said report/death certificate of the 'PMC', the petitioner moved before the appropriate authorities for grant of compensation amount. As nothing happened, the writ petition.

6. A counter-affidavit has come on behalf of the respondent no.4, the **Civil Surgeon-cum-Chief Medical**

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Officer, Patna and paragraph nos.10 to 13 read as under:

> ***"10***. *Regarding the statements made in paragraph no. 6 & 7 of the writ petition under reply it is submitted that the money receipt no. 526 issued by Anjani Diagnostic Centre, Kankarbagh, Patna, which has been appended by the petitioner as annexure-I series to the writ petition under reply reveals that sample of Deepak Kumar was collected on 17.04.2021 and the date of report was mentioned as 20.04.2021. On the contrary, the diagnosis report of Deepak Kumar issued by Pathkind Labs mentions that sample was collected on 18.4.2021 and report was released on 19.4.2021, whereas the son of petitioner namely Deepak Kumar died on 17.4.2021 itself.*
>
> ***11***. *Regarding the statement made in paragraph no. 8 & 9 of the writ petition under reply, it is submitted by that the answering respondent no. 4 by issuing letter no. 1154 dated 13.09.2022 had directed the Administrator/Director of Pathkind Labs Khemnichak, Patna to clarify that when Deepak*

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Kumar died on 17.04.2021 then how the date of collection of his sample has been shown as 18.04.2021.

***12**. The cluster Business Head of Pathkind Labs gave reply dated 24.09.2022 to the Civil Surgeon, Patna (respondent no.4) to the effect that sample of Deepak Kumar was taken on 16.04.2021 from its collection Centre namely, Anjani Patho Lab, Khemnichak, Patna but sample was registered on 18.4.2021 and report was released on 19.4.2021.*

***13**. The application made by the petitioner for grant of ex-gratia payment of Rs. 4,00,000/- was placed before the three-members committee constituted for scrutiny of the applications made for grant of payment of Rs. 4,00,000/-. The Committee, upon scrutiny, rejected the claim of the petitioner on the ground that Lab report is after date of death. The State Health Society, Bihar had communicated the said decision to the respondent no. 4 vide letter no.6568 dated 03.02.2023."*

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7. This Court has taken note of the fact that the copy of the counter affidavit was served upon the learned counsel for the petitioner on 24.06.2023 which incorporates the rejection order but neither any rejoinder has come nor the same has been challenged.

8. Learned counsel for the petitioner submits that the sample was taken prior to the death of Deepak Kumar but the report was provided later on and as such, that cannot be the basis for rejection of the claim put forward by the petitioner.

9. Upon query by the Court as to whether any Death Certificate was issued/granted by any Doctor/Medical Professional recording the cause of death of the petitioner's son due to COVID-19, the answer is in negative.

10. Learned State counsel on the other hand submits that when the death certificate of the Doctor is unavailable, she cannot put forward the claim that her son died of COVID-19 especially when the earlier lab report showed that the blood sample was received on 18.04.2021 (after the death of the petitioner's son on 17.04.2021) and report submitted on 19.04.2021. Only after a query was made by the respondents that they changed track and submitted that it was received on 16.04.2021 and report released on 19.04.2021.

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11. Learned counsel for the State further submits that in the aforesaid circumstance, the petitioner at best can file a suit before competent Civil Court where the documents shall be perused and the witnesses examined to come to the conclusion on the aforesaid claim. However, these disputed questions can not be adjudicated under **Article 226** of the **Constitution of India**.

12. Having gone through the facts of the case and the submissions of the parties, this Court finds force in the submissions put forward by the learned State counsel. The entire case of the petitioner is based on the fact that her son died of COVID-19. However, the basic requirement for coming to the conclusion i.e. the issuance of certificate by the Doctor/Medical Professional that he died of COVID-19 is unavailable.

13. She has based her entire claim on the basis of laboratory reports which again are doubtful. Initially it showed the collection of blood on 18.04.2021 (i.e after the death of the petitioner’s son on 17.04.2021) and only after query was made by the respondents, necessary correction was made that it was collected on 16.04.2021.

14. In the opinion of the Court, these facts can be examined only after the records are perused and the witnesses

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are examined. Certainly when the dispute has been raised, relief under Article 226 of the Constitution of India can be extended to the petitioner.

15. This takes the Court to only one conclusion. The writ petition is bereft of merit. Accordingly, dismissed.

(Rajiv Roy, J)

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