



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.1800 OF 2026

[Javid Khan S/o Munawwar Khan ..vs.. State of Maharashtra and Others]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. Amit S. Band, Adv., Shri.Tawir C. Sheikh, Adv. and Chetak D. Dhanjode,
Advocate for Petitioner.

Shri. A. V. Palshikar, AGP for Respondents/State.

**CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.**

DATE : 27th FEBRUARY, 2026.

. Heard.

2. The present petition under Article 226 of the Constitution of India challenges the orders dated 14.02.2026 passed by the Tahsildar, Nagpur Rural and dated 18.02.2026, passed by the Sub-Divisional Officer, Nagpur Rural, whereby permission for exhumation of the mortal remains of deceased Sajid Khan Munawwar Khan was declined.

3. The contention is that the petitioner is the real brother of the deceased. The deceased alongwith his two friends had travelled to Nagpur on 25.01.2026 to attend the Urs of Tajuddin Baba on the occasion of his birth anniversary. Subsequently, since 26.01.2026, the deceased went missing. After knowing this fact by enquiring with the two friends of deceased, the petitioner approached to respondent No.6 - Police Station Officer, Police Station Butibori, District Nagpur, to register a missing complaint, wherein he advised to first make enquiries with the Trust of Tajuddin Baba. Accordingly, he enquired wherein no result was yielded. Thereafter, respondent No.7 - Police Station Officer, Police Station Sakkardara, Nagpur, registered a missing report on 31.01.2026 vide missing report No.7 of 2026.

4. Upon enquiry by the petitioner and the two friends of the deceased with respondent No.7, the respondent No.7 informed them that on 28.01.2026, the respondent No.5 - Superintendent of Police, Nagpur Rural, had registered a report regarding an unknown dead body found within its jurisdiction. After showing the photograph of the deceased, the petitioner identified the body as that of his brother and requested that the mortal remains be exhumed and handed over to him so that the last rites would be performed in accordance with Muslim religious customs at Kabristan, Bada Tajbagh, Nagpur. The said request came to be rejected by the authorities directing the petitioner to obtain orders from a competent Court.

5. The issue that arises for consideration is whether the petitioner, being the real brother, is entitled to seek exhumation and custody of the mortal remains for performing last rites in accordance with his religious faith.

6. The right to life under Article 21 of the Constitution of India has been judicially interpreted to include the right to dignity, which extends even after death. The Hon'ble Supreme Court in *Ashray Adhikar Abhiyan v. Union of India*, reported in *(2002) 2 SCC 27*, has categorically held that the dignity of a dead body must be maintained and proper last rites ensured. Article 25 of the Constitution of India guarantees freedom of religion, which includes the right to perform essential religious rites and ceremonies. There is no statutory prohibition shown to this Court preventing exhumation under lawful supervision. Exhumation is permissible in law when ordered by a competent authority or Court.

7. The impugned orders dated 14.02.2026 and 18.02.2026 are cryptic and non-speaking in nature. The authorities have not assigned cogent reasons for refusal but have merely directed the

petitioner to approach a competent Court.

8. The petitioner is the real brother of the deceased. There is no rival claimant to the mortal remains. Post-mortem formalities are complete. Identity is established. In such circumstances, denial of permission would amount to infringement of Articles 14, 21 and 25 of the Constitution of India. Hence, we pass the following order :

ORDER

- i) The present writ petition is allowed.
 - ii) The impugned orders dated 14.02.2026 passed by the Tahsildar, Nagpur Rural and dated 18.02.2026 passed by the Sub-Divisional Officer, Nagpur Rural, are hereby quashed and set aside.
 - iii) Respondent Nos.5 and 6 are directed to conduct exhumation of the mortal remains of deceased Sajid Khan Munawwar Khan buried at Mokshadham Ghat, Ghat Road, Imamwada, Nagpur.
 - iv) The exhumation shall be carried out under the Supervision of respondent No.4 - Nagpur Municipal Corporation to ensure compliance with statutory procedure.
 - v) Upon exhumation, the mortal remains shall be handed over to the petitioner, being the real brother, for the purpose of performing last rites in accordance with Muslim religious customs.
9. The writ petition is, accordingly, disposed of.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)