

(2002) 01 SC CK 0077

In the Supreme Court Of India

Case No : W.P.(C) No.-000143-000143 / 2001

Ashray Adhikar Abhiyan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-01-2002

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : AIR 2002 SC 554 : (2002) AIRSCW 133 : (2002) 1 JCR 461 : (2002) 1 JT 41 : (2002) 1 SCALE 93 : (2002) 2 SCC 27 : (2002) 1 Supreme 68

Hon'ble Judges : G. B. Pattanaik, J;Brijesh Kumar, J

Bench : Division Bench

Advocate : Neeru Vaid, for the Appellant; B.A. Mohanti Binu Tamta, Kamakshi S. Mehlwal and D.S. Mahra, for the Respondent

Final Decision : Allowed

Judgement

Pattanaik, J.—A letter was addressed to Hon'ble the Chief Justice of India by the members of Ashray Adhikar Abhiyan, making a complaint that homeless persons, when meet a death, they are not cared for and are not given a decent burial, thereby questioning the right of a deceased homeless person for a decent burial. On the basis of that letter, an important question as to the right of homeless deceased, to have a decent burial, as per their religious belief and the corresponding obligation of the State towards such people having arisen, the letter was treated as a writ petition and was listed for hearing. The letter prayed for an intervention by this Court and to issue necessary directions, to all those concerned, so that a person dying on the road, can at least claim for a decent burial or cremation as the person belonging to the society. On the basis of that letter, notices have been issued. The Deputy Commissioner of Police (Headquarters) has filed a counter affidavit, indicating the role of the Police in such matters. On behalf of the Municipal Corporation of Delhi, Dr. Satpal, Deputy Municipal Health Officer has filed an affidavit, indicating therein that when a person dies on the streets and the dead body remains unclaimed is handed over

to the M.C.D. by the Delhi Police and thereafter the dead body is cremated at Electric Crematorium, Bela Road by the Health Department of M.C.D., free of cost. In case the dead body is that of the Muslims, then the same is buried on a burial ground near Delhi Gate by the Waqf Board and the Municipal Corporation of Delhi bears the expenses. On behalf of the Ashray Adhikar Abhiyan, a rejoinder affidavit was filed. In course of hearing, the Court wanted from the petitioner, as to what guidelines the petitioner wants from the Court and pursuant to the same, the proposed guidelines were submitted by the petitioner. On going through those guidelines, we find that apart from claiming a decent burial, the proposed guidelines cover a vast field, which we apprehend, would not come within the purview of the original prayer. In this Country, to expect that at least two police constables should reach the spot immediately and an ambulance should be called for, so that the body can be taken to the nearest hospital, is something which possibly cannot be directed by the Court. The petitioner has also suggested that the details of the person dying whose body is found by the police should be telecast on the national network of Doordarshan at least two times at an interval of two weeks is also not a suggestion, which can be accepted and in which case, the dead body has to be kept for more than two weeks.

2. Mr. B.A. Mohanti, the learned senior counsel appearing for the Municipal Corporation of Delhi, submitted on instructions that Police reaches the spot of occurrence as soon as it is made known that a dead body not being claimed is there on the road and then steps are taken to identify the dead body and to establish the reasons of the death. The dead body is photographed, where-after, it is sent to mortuary for post-mortem. An intimation is also sent to the Sub Divisional Magistrate. In the matter of identification wireless message giving complete description of the dead body is sent all over India and intimation is given for its publication in newspaper. There is also a proforma, which is sent along with the photograph to the Missing Persons' Squad and the same is published in Police Gazette. Apart from other steps taken in this regard, since affidavit filed indicates that the unclaimed dead body is cremated in the Electric Crematorium, we do not think it necessary to issue any further directions in that regard. On the materials on record, we are satisfied that the Municipal Corporation of Delhi is taking all possible steps for a decent burial of the unclaimed dead bodies found on the road and, therefore, question of issuing any further direction in that regard does not arise.

3. This writ petition is disposed of accordingly.