
(2000) 03 AHC CK 0130
In the Allahabad High Court
Case No : Writ Petition No. 1119 (MB) of 2000

Brijesh Kumar Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-03-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 2 UPLBEC 1354

Hon'ble Judges : S.H.A. Raza, J; Kamal Kishore, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; A.A.G. assisted by Vinod Kumar Singh, for the Respondent

Final Decision : Disposed Of

Judgement

S.H.A. Raza and Kamal Kishore, JJ.—By means of the present Public Interest Litigation filed by Sri Brijesh Kumar Singh, a lawyer of this Court, a grievance has been raised that unclaimed dead bodies are thrown into the river Gomti as a result of which the Gomti water is polluted. Besides the above, it has also been pointed out that the Electric Crematorium which has been installed at Bhainsa Kund is in shamble, no permanent staff is posted there. When the dead bodies are brought there either due to the electricity breakdown or lethargic attitude of the staff the dead bodies are not cremated as a result of which often they are thrown into the river Gomti.

2. The Superintendent of Police (Rural), the Superintendent of Police (City), Lucknow, the Secretary, Lucknow Development Authority and the Mukhya Nagar Adhikari, Lucknow Nagar Nigam have appeared before this Court.

3. The Police Officers have denied the averment of the petitioner that the dead bodies are thrown into the river Gomti. Such a practice was totally stopped since the year 1998 and a specific direction in that regard has been issued to all the Police Officers that unclaimed dead bodies which belong to majority community

are sent to Electric Crematorium, where there is adequate arrangement for cremation. As far as the dead bodies of persons belonging to Muslim and Christian communities are concerned, they are sent for burial.

4. On a query made by the Court, the Police Officers submitted that only Rs. 90/- per dead body are made available according to the Police Regulations, as a result of which the authorities concerned face difficulty in getting the dead bodies either cremated or buried and they are constrained to take the help of Non-Government Organisations.

5. It is a matter of common knowledge that when a dead body is taken for a burial in a public graveyard, the Trust or Waqf charges some money for providing space for burial. Besides the above, certain rituals, like washing of dead body and providing coffin etc. digging of the earth to facilitate the burial and wooden planks cost considerable expenses. The cost of the burial in any case does not come less than Rs. 1,000/- or more per body. As far as cremation is concerned, the Electric Crematorium which is under the control of the Lucknow Development Authority which has not been handed over to Nagar Nigam, charges a subsidised amount of Rs. 100/- per dead body. It was complained that the employees of Nagar Nigam who are posted there, do not cremate the bodies without taking bribe. Besides the above, as before the cremation certain religious rituals are also performed for which additional money is required, the funds available to the Police are not sufficient for cremation.

6. Having heard Sri Brijesh Kumar Singh, the petitioner as well as Additional Advocate General who was ably assisted by Sri Vinod Kumar Singh, we issue the following directions :

(1) The District Magistrate, Lucknow will create a fund for the burial and the cremation of the unclaimed dead bodies, besides the funds which are available to the police under the Police Regulations and provide the funds immediately to the Police authorities whenever the same is required for a dignified burial or cremation of the dead bodies.

(2) The Nagar Nigam will post permanent staff at the Electric Crematorium and make an earnest endeavour to see that whenever an unclaimed dead body or any other dead body is brought to the Electric Crematorium, the staff will not charge more than Rs. 100/- and if any employee demand additional money, then appropriate action would be taken against such an employee.

(3) The authorities of the U.P. Power Corporation shall see that there is no electricity breakdown in the Electric Crematorium.

(4) The local authorities, either the Lucknow Development Authority or the Nagar Nigam will pay electricity bills to the Power Corporation within the prescribed period mentioned in the bill so the electric supply is not disconnected.

7. Before parting with this case, it is necessary for the public authorities as well as the Non-Government Organisations to create awareness among the people

that the dead bodies of majority community shall be cremated in Electric Crematorium to minimise the pollution in the river Gomti where even after the cremation, half burnt bodies and bones are often thrown which pollutes the water of the river and burning of the bodies through wood also pollutes the air. Besides the above, the cost of cremation in Electric Crematorium is least expensive. No doubt, certain religious ceremonies like "Kapal Kriya" etc. cannot be performed in Electric Crematorium. It is the duty of Shankracharyas and the Religious Heads to consider this aspect of the matter and create awareness among the people that "Kapal Kriya" is not a mandatory religious ritual or an obligation to be performed, and even without it, the dead body can be cremated in electric crematorium, with honour and dignity.

8. We hope and expect, may God forbid, that whenever a person dies, his relations instead of cremating the dead body at the SHAMSHAN GHAT "at the bank of the river Gomti", would take the body to the Electric Crematorium for cremation, which is least expensive and also protect and preserve the environment.

9. With the aforesaid observations, the writ petition is disposed of finally.