

(2026) 01 BOM CK 0331

In the Bombay High Court, Aurangabad Bench

Case No : Writ Petition No. 286 Of 2023

Machindra Maruti Gaikwad

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-01-2026

Acts Referred:

Citation : (2026) 01 BOM CK 0331

Hon'ble Judges : Vaishali Patil-Jadhav, J;Arun R. Pedneker, J

Bench : Division Bench

Advocate : R.A. Tambe, Pooja Patare, R.R. Bangar, G.A. Kulkarni, A.D. Aghav

Final Decision : Allowed

Judgement

Arun R. Pedneker, J

1) Rule. Rule returnable forthwith. By consent of parties, heard finally.

2) By the present writ petition, the petitioner challenges the order dated 15.09.2022 passed by the respondent No. 3 - District Collector, Ahmednagar, rejecting the claim of the petitioner for being eligible to receive insurance amount of Rs.50,00,000/- under the scheme Prime Minister's Garib Kalyan Yojna declared for the family members of corona warriors, doctors, health workers who died in Covid-19. The deceased was the wife of the petitioner and was working as a Nurse (ANM) since 1993 in Civil Hospital, Ahmednagar and she died on 5.5.2021 during covid period while performing her duty. The insurance claim is rejected by the Collector on the ground that the petitioner has not submitted the RTPCR report showing that the deceased, wife of the petitioner was covid positive at the time of her demise and the available RTPCR report indicated that the deceased was covid negative.

3) Brief facts leading to the institution of the present writ petition are noted as under :-

The wife of the petitioner - Manda Machindra Gaikwad was working as a Nurse

(ANM) in Civil Hospital, Ahmednagar since 1993. The deceased, wife of the petitioner was working as Arogya Sevika at sub-centre Mulanagar which falls under Primary Health Centre, Bargaon Nandur. The deceased was appointed as Arogya Sevika on 31.3.2021 at Covid Care Centre, Mahatma Phule Agricultural University, Rahuri, Ahmednagar. The duty of the deceased was to check the temperature, oxygen level and provide necessary medicines to the covid positive patients. It is stated that the wife of the petitioner tested positive for Covid-19 on 30.4.2021 and passed away on 5.5.2021 because of infection of Covid-19. Thereafter the petitioner applied under Pradhan Mantri Garib Kalyan Yojna which declared an insurance cover of Rs.50,00,000/- to the family of corona warriors, on the death of such corona warrior/worker. The petitioner made various representations to the concerned authority under the above scheme, however, the benefit was not extended to the petitioner. Thus, the petitioner filed Writ Petition No. 14450/2021 before this Court, wherein direction was issued to respondent No. 3 - Collector to decide the claim of the petitioner within four months. Thereafter, the respondent No. 3 - Collector decided the representation of the petitioner and vide impugned order dated 15.9.2022 rejected the claim of the petitioner. As such the present writ petition is filed.

4) Mr. R.A. Tambe holding for Mr. S.R. Wakale, learned counsel for the petitioner submits that the claim of the petitioner is rejected on the ground that the petitioner has not produced the covid positive certificate of the deceased showing that the deceased was suffering from covid at the time of her demise and also the available RTPCR report of the deceased/wife of the petitioner showed that she was covid negative.

5) The learned counsel has taken us through the record produced along with his application to the Collector and submits that undisputedly wife of the petitioner was working as Arogya Sevika from 1993 and her appointment letter is on record. There is also certificate dated 12.7.2021 issued by the concerned Taluka Health Officer, certifying that the wife of the petitioner was working as Arogya Sevika at Primary Health Centre at Bargaon Nandur under sub-center Mulanagar and she died due to covid-19 infection in a Government Hospital, Ahmednagar. The work of the deceased included attending the covid patient etc. Her appointment letter dated 30.3.2021 shows that she was appointed at Quarantine Center at Mahatma Phule Agricultural University on 31.3.2021 from 8.00 a.m. to 8.00 p.m. for attending covid patients. The document produced at page No. 25 of this petition shows that HR CT scan of thorax (Plain) of wife of the petitioner was performed on 19th April 2021 and following conclusion is drawn :-

"Severe atypical viral pneumatics. Total CT severity Score 17/25".

6) The discharge summary dated 1.5.2021 issued by Silver Crest Multispeciality Hospital, Ahmednagar shows that wife of the petitioner was first admitted in the private hospital on 30.4.2021 and discharged on 1.5.2021 for taking further treatment in Government Hospital. The discharge card of private hospital shows SPO2 level of the wife of the petitioner as 60% at the time of discharge, clinical

progress of the deceased was also not shown to be good and patient/deceased was advised to shift at Civil Hospital.

7) Medical Officer at Primary Health Centre Baragaon Nandur, Taluka Rahuri, District Ahmednagar has issued certificate that duty of the deceased was on 31.3.2021 at covid care centre (Mahatma Phule Krushi Vidyapeeth Rahuri) for the quarantine centre and during her duty, she was in direct contact with Covid-19 patient. She contracted covid 19 and died on 5.5.2021. She passed away in Government Hospital and medical certificate of cause of death issued by Civil Hospital, Ahmednagar shows that she died due to cardio respiratory failure due to consequence of ARDS B/L pnumonitis and covid-19 positive. This certificate is issued by Medical Superintendent, Civil Hospital, Ahmednagar.

8) Per contra, there is only one document issued by RT PCR Laboratory, District General Hospital, Ahmednagar dated 5.5.2021 showing that throat swab of the wife of the petitioner was taken on 1.5.2021 and report was received on 3.1.2021 and she was shown covid negative. Clause (3) of the report indicates that a single negative test result particularly if this is from an upper respiratory tract specimen does not exclude an infection.

9) Following documents are required to be submitted along with claim form.

I. Identity proof of Deceased (Certified copy)

II. Identity proof of the Claimant (Certified copy)

III. Proof of relationship between the Deceased and the Claimant (Certified Copy)

IV. Laboratory Report certifying having tested Positive for COVID-19 (in Original or certified copy).

V. Death summary by the Hospital where death occurred (in case death occurred in hospital) (Certified copy).

VI. Death Certificate (in Original).

VII. Certificate by the Healthcare Institution/organization/office.

10) Above Sr. No. (IV) provides for submission of the Laboratory Report certifying having tested Positive for COVID-19 (in Original or certified copy). In the instant case, there is no such certificate. However, one of the RTPCR certificate produced on record shows that sample of the deceased was collected on 1.5.2021 and the deceased was covid negative. However, the medical record produced as discussed above clearly indicates otherwise. CT scan of the wife of the deceased was conducted in which total CT severity score of deceased was shown as 17 out of 25 which would clearly indicate covid-19 infection. Oxygen levels are also clearly noted in the CT scan report. Medical certificate of cause of death issued by Medical Superintendent of Civil Hospital Ahmednagar shows that cause of death of deceased was cardio respiratory failure due to consequence of ARDS B/L pnumonitis and due to consequence of covid-19 positive.

11) The deceased was working as Arogya Sevika (Health worker) during the covid period. In this fact situation, merely because the petitioner could not submit the laboratory report certifying that the deceased was tested positive for Covid-19, the claim of the petitioner cannot be rejected. Notwithstanding the above RT PCR report showing the deceased covid negative, the overwhelming evidence is produced on record particularly the cause of death certificate issued by the Medical Superintendent of Civil Hospital Ahmednagar, which clearly demonstrates that the deceased passed away due to covid-19. The CT scan report indicates total CT severity score of the deceased as 17 out of 25 and shows that severity of infection of the deceased. Therefore the RT PCR report indicating that the deceased tested negative for Covid-19 is not the sole criteria to rely upon to decide whether the person was covid positive or that the death is caused due to covid infection.

12) Reference can be made to the judgment of Hon'ble Supreme Court in the case of Pradeep Arora and Others Vs. Director, Health department, Government of Maharashtra and others decided on 11.12.2025 in Special Leave Petition (C) 16860 of 2021 wherein the Hon'ble Supreme Court took a pragmatic view, having noticed that although the doctor was not called for specific covid-19 duty, but since he was asked to keep his clinic open, the court has held that there was a requisition of doctors for covid duty and rejected the submission that there was no specific requisition and therefore, the claim for insurance must fail on this ground. In another case of B. Varalakshmi Vs. Secretary to Government of India, New Delhi reported in AIR Online 2021 Mad 878 Hon'ble Madras High Court has observed that although there was no covid certificate, it is very clear from the CT-Chest Covid screening test that the husband of the petitioner therein was afflicted with Covid 19. Therefore, the Madras High Court held that when such a clinching document is available, there is no requirement for insisting for the RTPCR test result and in cases of such nature, the authorities must not stick to technicalities and the claim must be considered with more humanness with the available documents which clearly substantiates the fact that the husband of the petitioner therein was suffering from Covid-19.

13) In view of the discussion made above and considering the material available on record, we are of the opinion that the claim rejected by the Collector on the ground that the petitioner has not submitted the RTPCR report showing that the deceased, wife of the petitioner was covid positive and the contra RTPCR report, indicates that the deceased was covid negative cannot be accepted. The impugned order of the collector is accordingly quashed and set aside and the Collector is directed to forward the claim of the petitioner to the concerned authority by holding that the wife of the petitioner was covid positive at the relevant time in view of the overwhelming medical evidence indicating that the deceased was positive at the time of her demise and has succumbed to the covid infection. The authorities to decide claim of the petitioner within eight weeks. The writ petition is allowed accordingly and disposed off. Rule is made absolute.