
(2011) 08 PAT CK 0019
In the Patna High Court
Case No : CWJC No. 3997 of 2010

Ranjana Verma

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2012) 1 PLJR 370

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Judgement

Jyoti Saran, J

1. Heard Mr. Hemendra Prasad Singh, learned counsel appearing on behalf of the petitioner and Mr. D. Choudhary, learned Assisting Counsel to-AAG-13 for the State. The petitioner approached this Court seeking a direction to the respondents to pay a compensation amount of Rs. 20 lakhs by reason of mysterious death of her husband in Adarsh Kendriya Kara, Beur, Patna.

2. The allegation against the deceased was of demanding a bribe of Rs. 25,000/-. It is the case of the investigating agency that the deceased alongwith one Manohar Lal Nagera were caught red-handed while accepting the illegal gratification and were charged with offences punishable under the Prevention of Corruption Act. The said accused after being remanded to judicial custody on 17.9.2009, were brought to the Adarsh Kendriya Kara, Beur, Patna.

3. The deceased was a cancer patient and was being treated at Mahavir Cancer Sansthan, Phulwarisharif, Patna. As the deceased was allowed home food, hence the petitioner happened to meet the deceased everyday. It is contended by learned counsel for the petitioner that as until 8.10.2009, there was no noticeable change or fall in the health condition of the deceased but when the petitioner visited the jail on 9.10.2009, she could not meet her husband and was told by a co-prisoner that her husband was not well since the night of 8.10-2009. The petitioner returned home and thereafter she did not receive any information

from the jail authority. On 10.10.2009, the petitioner was informed telephonically by a co-prisoner Raman Kumar Singh that her husband had been shifted to the Patna Medical College and Hospital (hereinafter referred to as "the PMCH"). The petitioner then rushed to the PMCH where she found her husband in deceased condition. A certificate from the doctor of the PMCH placed at Annexure-3 of the writ petition certified that the deceased was brought dead to the hospital at 11.30 P.M. The post mortem report placed at Annexure-2 of the writ petition reserves the opinion as to the cause of death. A finding has been recorded by the Medical Officer that there were not less than five injuries on the person of the deceased caused by hard and blunt substance.

4. It is in these circumstances that this court by order dated 11.7.2011, directed the State Counsel to produce the Viscera Report of the deceased which had been forwarded to the Forensic Science Laboratory, Patna for ascertaining the cause of death of the deceased.

5. At this stage, a supplementary counter affidavit has been filed on behalf of the respondent no. 5 the Superintendent of Adarsh Kendriya Kara, Beur, Patna enclosing not only the report of the Director, Forensic Science Laboratory dated 19.10.2010 but also an order passed by the Hon'ble National Human Rights Commission, New Delhi (hereinafter referred to as "the Commission") disposing of the issue of the deceased on a reference made by the Superintendent of the Jail holding that on a Magisterial enquiry being conducted -in the matter, no foul play could be attributed and that the deceased had died of illness in a normal course. A further observation has been made by the Hon'ble Commission that no complaint appears to have been received by the Commission alleging custodial death of the deceased. The order is dated 4.6.2011.

6. It is thus contended by learned counsel appearing on behalf of the State that the grievance raised by the petitioner is misconceived and the Hon'ble Commission having examined the matter and having found no foul play in the death of the deceased, nothing survives in the present writ petition and which may be disposed of in the light of the order dated 4.6.2011 of the Hon'ble Commission.

7. Learned counsel for the petitioner, disputing the position, submits that it was wholly improper on the part of the respondent no. 5 the Superintendent, Adarsh Kendriya Kara, Beur, Patna to have suppressed this vital information of having referred the matter regarding the death of the deceased before the Commission, not only from the petitioner who is a relevant party and thus deserved to be heard by the Hon'ble Commission, but also from this court where the matter is pending adjudication on the issue as to whether the deceased died in normal circumstances or it was a case of negligence on the part -of the jail authorities which led to the death of the husband of the petitioner.

8. it is contended that as the petitioner was not made aware about the inquiry being conducted by the Commission as to the death of the husband of the

petitioner, she was precluded to submit her form of defence and to demonstrate before the Hon''ble Commission the circumstances accompanying the death of her husband.

9. It is contended that a lot of questions remains unanswered like presence of ante mortem injuries on the person of the petitioner, the veracity of the letter dated 9.10.2009 issued by the respondent no. 5 intimating the petitioner regarding shifting of her husband to the PMCH for treatment when the certificate of the Medical Officer, PMCH certifies that the husband of the petitioner had been brought dead at "11.30 P.M. and the necessity to issue the second letter on 10.10.2009 informing the petitioner about the death of her husband during the course of treatment.

10. Learned counsel for the petitioner submits that the failure on the part of the respondent no. 5 in either informing the petitioner or this court about the pendency of the issue before the Hon''ble Commission or informing the Hon''ble Commission regarding pendency of the present proceedings, leading to the observations by the Hon''ble Commission regarding absence of any complaint by any person alleging custodial death of the deceased, i.e. the husband of the petitioner, also remains unanswered.

11. Be that as it may, as there is a conclusive finding by the Hon''ble Commission on the issue, as is manifest from the communication dated 4.6.2009 of the Assistant Registrar, National Human Rights Commission, New Delhi addressed to the respondent Superintendent of the Jail and placed at Annexure-R/5 to the supplementary counter affidavit, this court would not sit in judicial review of the finding of the Hon''ble Commission. The petitioner, if so advised, may raise all the issues as raised in the present writ petition and also taken note of in the present order by filing an appropriate application for consideration by the Hon''ble Commission. With the aforesaid observation, the writ petition is disposed of.