

23.12.2020

LATER

WPA 5882 of 2020
CAN 1 of 2020 (CAN 3982 of 2020)
(Via Video Conference)
Sankar Ruidas

Vs.

The State of West Bengal & Ors.

Mr. Sukanta Chakraborty

Mr. Anindya Halder

...for the Petitioner.

Mr. Kishore Datta

Mr. Sayan Sinha

...for the State.

Mr. Debasish Ghosh

Mr. Nilanjan Adhikari

...for the Respondent Nos.12 and 13.

It is now 2.10 pm and it is possible that since the direction for the Directors of Sanjiban Hospital to be present in court was issued after 12.30 pm, no officebearer has been able to make it to court by now.

Learned Advocate-General reports that the persons are on their way. Hopefully, they have only been persuaded to come and not arrested. It was not the intention of the court to have such persons arrested, but only for such persons to be made to understand the value of human life, whatever may be the status or station of the deceased.

Here is a case of a 19-year old woman who, according to her father, was in an advanced stage of pregnancy and was admitted to the Uluberia Sub-Divisional Hospital on April 14, 2020. She was

admitted with malnutrition and general poor health and was apparently advised to undergo a Covid test at a private facility by the name of Sanjiban Hospital.

It is submitted on behalf of Sanjiban Hospital that such hospital, at the relevant time, merely conducted Covid tests and upon Adari Das, the petitioner's daughter, being tested, she was requested to return to the Uluberia SD Hospital, where she did return. Sanjiban Hospital further submits that the test result came out to be negative and Sanjiban Hospital had nothing further to go with the concerned patient. The report filed by the Uluberia Hospital, which was treated as the State's report as recorded in the previous order of December 15, 2020, reveals that Adari Das died on April 20, 2020 of malnutrition and related complications.

The petitioning father says that media reports indicate that Adari Das delivered a child at Sanjiban Hospital. However, there is no verified report or material in such regard. The State says that Adari Das did not deliver any child while at Uluberia Hospital, nor was she operated on. That would imply that the additional life within Adari may also have been extinguished upon Adari's death. There are several questions which remain unanswered. For one, the petitioner claims that the date of death appears to be April 17, 2020 from page 9 of the report filed by the Uluberia Hospital; whereas it has been claimed in the post-mortem report that Adari died on April 20, 2020. The document at page 9 of the report is not clear, but it is possible to read it as the petitioner wants it to be read.

When Adari was admitted, she weighed 41 kg.

The post-mortem report indicates the lifeless body of the woman examined weighed 25 kg. It is inconceivable that Adari would have lost 16 kg in four days. More intriguingly, the post-mortem examination does not mention any foetus carried by the deceased. Ordinarily, if an autopsy is conducted on a pregnant lady, the report would specifically refer to such aspect.

The petitioner does not know the whereabouts of Adari or her body. The State gives the impression that the petitioner and his relatives did not respond to the notices or requests made to collect the body. The body is now apparently in the morgue at the Uluberia Hospital.

The body must be preserved in the same state as it is now. A second post-mortem should be conducted on the body within 48 hours from now at R.G. Kar Medical College and Hospital. The exact time when the body is taken for the second post-mortem examination will be communicated to

Advocate for the petitioner so that the petitioner may depute a medical practitioner to be present along with any other representative of the petitioner at the time of the post-mortem examination being conducted. The costs, charges and expenses for such doctor to be deputed by the petitioner will be borne by the State. Learned Advocate-General is requested to ensure that the appropriate sum of money is made over to the relevant doctor or to Advocate for the petitioner to be handed over to the doctor.

It is also necessary that a DNA test be conducted.

For such purpose, the petitioner will make his DNA sample available. DNA samples may also be collected from any other close relatives of Adari to verify whether the lifeless body that is now preserved in the Uluberia

Hospital morgue is that of Adari.

The Directors, including the principal persons in control of Sanjiban Hospital will show cause as to why appropriate steps, including in contempt, should not be taken against them for failing to file a report despite the clear directions issued by the order dated August 4, 2020. The submission made on behalf of Sanjiban Hospital to the effect that the discharge certificate issued by such hospital would suffice for a report is untenable and is rejected out of hand. When the court calls for a report, a report ought to and must be filed. The President and the Secretary of the society that runs Sanjiban Hospital are present in court. Their personal appearance is dispensed with, subject to further orders that may be passed.

Adari Das was a citizen of India. She did not enjoy the affection, care and respect that the Constitution requires every citizen to receive, irrespective of station or status. She may not have belonged to the entitled class. Her family may not have been empowered or even well off to provide the basic amenities that she needed as a would-be mother. At least, in death, Adari Das is entitled to some dignity as every citizen blessed by our glorious Constitution deserves.

Certain documents have been furnished in court today by learned Advocate-General. Those will be retained as part of the records. Advocate for the petitioner will have liberty to obtain copies thereof immediately.

The matter will appear before the appropriate Bench a week after the vacation.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)