

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6100 of 2020

Court on its own motion on the news item published in The Times of India
Dated 28th May, 2020.

... .. Petitioner/s

Versus

1. The Union of India Through its Principal Secretary Disaster Management, New Delhi.
2. The State of Bihar Through its Chief Secretary, Patna.
3. The Dept. of Health and Family Welfare Through its Principal Secretary, Govt. of Bihar, Patna.
4. The Dept. of Disaster Management Through its Principal Secretary, Govt. of Bihar, Patna.
5. The Inspector General of Police Bihar.
6. The Dept. of Social Justice Govt. of Bihar, through its Principal Secretary, Patna.
7. The Dept. of Home Through its Principal Secretary, Govt. of Bihar, Patna.
8. The Indian Railway Through its Principal Secretary, New Delhi.

... .. Respondent/s

Appearance :

	:	Mr. Ashish Giri, Amicus Curiae
For Union of India	:	Mr. S.D.Sanjay, A.S.G.
	:	Mr. Ratnesh Kumar, C.G.C.
For the State/Respondent/s	:	Mr. S.D. Yadav, A.A.G. IX
For Railways	:	Mr. Ramadhar Shekhar, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 28-05-2020

In the forenoon session, following order was



passed:-

During the course of the hearing, one of us, Hon'ble Mr. Justice S. Kumar invited my attention to a news paper article published in the "Times of India" dated 28th of May, 2020 Patna edition. This was also brought to the notice of Sri S. D. Yadav, learned Additional Advocate General IX present in the virtual Court.

The relevant portion of the news item reads as under:-

"Video of a child trying to wake up his dead mother goes viral.

Patna : a video of a toddler trying to wake up his dead mother lying on a railway platform has gone viral on social media. The child can be seen removing a shawl covering his mother's body.

According to officials, the incident took place on Monday at Muzaffarpur railway station. The woman was returning from Surat and was supposed to get down at Katihar. "The train reached Muzaffarpur at 3.30pm and her dead body was taken out here by relatives accompanying her".

While some reports said the woman died of thirst and hunger on the train, the railways said she was ill, CPRO Rajesh Kumar said. "This woman was mentally unstable and was not keeping well. Government railway police arranged for the transportation of the body to Madhubani, her final destination."

On the same day, a four-year old child too died at Muzaffarpur railway station. An



official said this child had returned from Delhi. "He died of heat and exhaustion," a district official said."

If the contents of the new items are correct, of which we have no reason to disbelieve, for the paper being of national repute having wider circulation, then the incident is rather shocking and unfortunate. This warrants intervention by us in exercise of our jurisdiction under Article 226 of the Constitution of India and as such we take suo motu cognizance of the news item and issue notice. The following issues would warrant immediate attention for our consideration. (a) whether the postmortem of the dead-body was conducted ? If yes, what was the cause of death ? Did the lady actually die of hunger ? (b) was she travelling alone with her sibling ? If not, who all were her companions, (c) what action stands taken by the law enforcing agencies, (d) were the relatives of the deceased informed of the incident, (f) were the last rights of the deceased performed as per the custom, tradition and the instructions issued by the government, and (g) Above all who is now taking care of the children/sibling(s), who unfortunately lost their mother in these times of distress.

Before we pass any further order, we direct Sri S. D. Yadav, learned Additional Advocate General-IX, who is present in the Virtual Court to obtain instructions on all the issues.

Post this matter at 2.15 P.M. today itself.

Let the Petition be registered as 'Court on its own motion on the basis of News Report dated 28th May, 2020 published in the 'Times of India'.

Following will be added as respondents:

1. Union of India through the Principal Secretary, Disaster Management, New Delhi
2. The State of Bihar through its Chief Secretary, Patna
3. The Department of Health & Family Welfare through its Principal Secretary, Government of Bihar, Patna
4. The Department of Disaster Management



through its Principal Secretary, Government of Bihar, Patna

5. The Inspector General of Police, Bihar
6. The Department of Social Justice, Government of Bihar through its Principal Secretary, Patna
7. The Department of Home through its Secretary, Government of Bihar, Patna
8. The Indian Railways through its Principal Secretary, New Delhi

Registrar General shall telephonically/electronically inform the nominated counsel and ensure that after registration, a complete paper book is supplied to them through electronic mode.

We understand that Hon'ble the Supreme Court of India has taken cognizance of matters pertaining to the migrants. Sri Yadav to ascertain from the nominated Standing Counsel for the State of Bihar in the Supreme Court, as to whether Hon'ble Supreme Court has taken cognizance of this particular incident or not.

We request Sri Ashish Giri, learned Counsel, who is also present in the Virtual Court, to assist in the matter as Amicus Curiae.

Registrar List shall ensure that not only all the learned counsel are informed of the posting of the matter for 2:15 P.M. today, but shall also ensure that the link for joining the proceeding through Video Conferencing is forwarded to them.

Equally, the Court Master is also directed to ensure compliance of the matter.”

In the afternoon session when the matter was taken up at 2:30 P.M., Sri S. D. Yadav, learned Additional Advocate General-IX informs that for ascertaining information of overlapping of issues, the learned Advocate General, had himself spoken with the Standing Counsel for the State of Bihar in the Supreme Court as also the learned Solicitor General of



India, but no information could be ascertained as the matter listed on the Board, had yet not reached.

Sri Yadav further states that the news report is partially incorrect. The deceased was mentally unstable and had died a natural death during the course of her journey from Surat (Gujarat), which fact was reported by her companions i.e., her sister and brother-in-law(sister's husband, namely Md. Wazir). The deceased, who had been deserted by her husband, had only one child. Md. Wazir brought the factum of her death to the notice of the Railway Authorities and after recording of his statement, the dead body was allowed to be taken home. No post mortem was conducted. Also no FIR was registered. However, the District Administration facilitated by providing an Ambulance up to the place of destination. The orphaned child is in safe custody and guardianship of the sister of the deceased.

Shri Yadav further states that even though the child is safe and secure, yet he shall personally pursue the matter with the authorities who would again reach out to the family, enquiring any need of assistance. At this stage he clarifies that his statement is based on the instructions so received and the recorded statement of Md. Wazir.

In view of the aforesaid statement, at this stage,



awaiting instructions from the Standing Counsel in the Supreme Court, we, prudently, refrain from issuing any further directions, more so when the child is in safe custody.

However, let what is so stated by Shri Yadav, as also complete facts be made known to the Court, on the personal affidavit of the concerned Principal Secretaries before the next date.

List on 3rd of June, 2020.

(Sanjay Karol, CJ)

(S. Kumar, J)

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