

**AFR**  
**Reserved**

**Court No. - 90**

**Case :-** WRIT - C No. - 28249 of 2021

**Petitioner :-** Kusum Lata Yadav

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Siddharth Khare, Sr. Advocate

**Counsel for Respondent :-** C.S.C., Tarun Agrawal

With

**Case :-** WRIT - C No. - 1594 of 2022

**Petitioner :-** Smt. Priyanka Singh

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Uma Nath Pandey

**Counsel for Respondent :-** C.S.C., Tarun Agrawal

With

**Case :-** WRIT - C No. - 1600 of 2022

**Petitioner :-** Puspa Devi Pathak

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Ashish Kumar, Deepak Kumar Pandey

**Counsel for Respondent :-** C.S.C., Tarun Agrawal

With

**Case :-** WRIT - C No. - 9460 of 2022

**Petitioner :-** Smt. Geeta Devi

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Awadhesh Prasad, Radhey Shyam

Singh

**Counsel for Respondent :-** C.S.C., Tarun Agrawal

With

**Case :-** WRIT - C No. - 1485 of 2022

**Petitioner :-** Shantanu Singh

**Respondent :-** State Of U P And 3 Others

**Counsel for Petitioner :-** Vipin Kumar

**Counsel for Respondent :-** C.S.C., Tarun Agrawal, Yatindra

With

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**Case :-** WRIT - C No. - 30130 of 2021

**Petitioner :-** Subhash Chandra

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Mahesh Sharma

**Counsel for Respondent :-** C.S.C.

With

**Case :-** WRIT - C No. - 3276 of 2022

**Petitioner :-** Smt. Khushboo

**Respondent :-** State Of U.P. And 6 Others

**Counsel for Petitioner :-** Rajesh Kumar Patel, Subedar

**Counsel for Respondent :-** C.S.C.

**Hon'ble Attau Rahman Masoodi, J.**

**Hon'ble Vikram D. Chauhan, J.**

**( By Hon'ble Atttau Rahman Masoodi, J.)**

1. This batch of writ petitions involving common question of facts and law were heard together and are being decided by a common judgment.
2. The petitioners have questioned the legality of Clause 12 of the Government Order dated 1<sup>st</sup> June, 2021, which was issued in modification of the earlier Government Orders dated 6<sup>th</sup> April, 2021 and 4<sup>th</sup> May, 2021. By means of the impugned government order, the State of Uttar Pradesh raised the amount of ex-gratia payment to the dependants of a deceased employee dying on election duty due to COVID-19 from Rs.15 lacs to Rs.30 lacs subject to the fulfilment of conditions in Clause-12.
3. In usual course, the National Authority by virtue of Section 12 of the Disaster Management Act, 2005 is empowered to recommend guidelines for the minimum standards of relief which is to be provided to persons affected by disaster. Section 12 of the Act of 2005 for ready reference is extracted hereunder:-

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**“12. Guidelines for minimum standards of relief.** —The National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,—

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.”

4. It is evident from the above quoted provision that ex-gratia assistance on account of loss of life is one of the measures for restoration of the means of livelihood to the members of aggrieved family. The State Government is also empowered under Section 38 of the Act of 2005 to take measures defined under Section 38(2) which include the financial help in the nature of ex-gratia payment under Section 38(2)(1) and this is how the aforesaid government orders have come to be issued for compensating the loss of lives to the dependants of those who on being deputed to perform election duties in the U.P. Panchayat Elections – 2021 contracted COVID-19 and died. Section 38(2)(1) for ready reference is reproduced hereunder:-

*“Section 38(2)(1):- such other matter as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.”*

5. A person having contracted pandemic i.e. COVID-19 while on election duty became a matter of consideration in the light of recommendations made by the Election Commission of India as

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well as the National Authority. Therefore, to avoid litigation as against the claims which may have arisen on account of the death of a person discharging election duty by his dependants, the ex-gratia payment to the tune of Rs.30 lacs was a measure evolved by the State Government to compensate the dependants of any such loss of life, whose death occurred on account of COVID-19 having been contracted while on election duty. The Election Commission of India for the purpose of ex-gratia payment is said to have defined the election duty to mean the performance of such duty by leaving one's house on a scheduled day till a person returned back home. The election duty included training, polling duty, counting duty or any other duty relating to election. It implies that contracting COVID-19 while on election duty after leaving one's place of residence till reaching back home was the range of movement to which every case has to be corroborated.

6. In the present case, the U.P. Panchayat Election was notified in the month of March, 2021 whereafter the schedule of election duty in various capacities came to be issued on 6<sup>th</sup> April, 2021. The chart below indicates the relevant details as regards the petitioners being sent on election duty, date of diagnosis of COVID-19 followed by their hospitalization and date of death in the hospitals or otherwise.

Case No.	Petitioner	Name of deceased/ date of death	Date of Election duty	Tested Positive on	Time Gap between date of duty and testing in days	Time gap between date of testing and date of death in days	Time gap between date of duty and death in days
Writ-C No.1594 of 2022	Smt. Priyanka Singh	Late Sheshram Chaudhary/ 28.5.2021	9.4.2021 (training single day)	07.05.21	28	21	50
Writ-C No.28249 of 2021	Smt. Kusum Lata Yadav	Late Ashok Kumar/ 15.5.2021	12.4.2021 (training single day)	23.4.2021	11	23	34

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Writ-C No.1600 of 2022	Pushma Devi Pathak	Late Surendra Nath Pathak/ 23.5.2021	10.4.2021 (training) & 14.4.2021 (both single days)	27.4.2021	13	26	44 & 40
Writ-C No.9460 of 2022	Smt. Geeta Devi	Late Ravi Shankar Vishwakarma/ 25.4.2021	13.4.2021 (training single day)	N/A	N/A	NA	13
Writ-C No.1485 of 2022	Shantanu Singh	Late Kaptan Singh/ 21.6.2021	12.4.2021 (training) & 2.5.2021 (both single days)	22.5.2021	20	29	71 & 51
Writ-C No.30130 of 2021	Subhash Chandra	Late Poonam Rani/ 02.06.2021	29.4.2021 (election duty single day)	10.205.2021	13	21	33
Writ-C No.3276 of 2022	Smt. Khushboo	Late Shakuntala Devi/ 07.07.2021	29.4.2021 (election duty single day & 13.4.2021 (training single day)	22.6.2021	55	15	70

7. Taking into account the fatal impact of COVID-19, it was for this reason that the State Government by a Government Order dated 6<sup>th</sup> April, 2021 decided to compensate for the loss of life of any employee sent on election duty to the dependants with the payment of Rs.15 lacs which was enhanced to Rs.30 lacs. The definition of election duty specified by the Election Commission of India adopted in paragraph 2 of the Government Order dated 1<sup>st</sup> June, 2021 of which Clause 12 has been impugned herein remained para materia. The hardship in the matter of implementation of the ex-gratia payment to the dependents of pandemic victims was experienced on account of relating the COVID-19 deaths during election duty which fell for consideration before the State Government and the matter was considered in the background of published opinions in Lancet journal which were relied upon by the State Advisory Board of

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COVID-19/Director, SGPGI, Lucknow.

8. The Government Order issued by the State of U.P. on 1<sup>st</sup> June, 2021 dispelled many confusions as regards contracting COVID-19 and broader principles were adopted to ameliorate the implementation of the compensatory scheme evolved by the State. In the first place, the definition of the election duty was liberally adopted to include all the activities in relation to election duties where the probability of contracting COVID-19 prior to its diagnosis was prominent. The definition clause however made it dependant upon a person going to election duty on a scheduled date till he returned back home. The most difficult aspect of the scheme is to relate a COVID-19 death to the date of election duty. For any death on account of COVID-19, it is essential for a claimant to establish that the deceased had attended the election duty prior to his death which he contracted while on election duty. The difficulty certainly arises in the determination of the fact of contracting Covid infection but where it is definite that a person prior to diagnosis or death had performed election duty, it is to be assumed that COVID-19 was contracted while on election duty unless proved otherwise. The State Government in order to mitigate the technical hardship considered the entire issue with the assistance of experts and it was found that a COVID-19 patient from the date of disease onset had mortality expectancy within 28 days. There is however, no scientifically proven assessment of time, after the disease onset, within which a person may be diagnosed as COVID positive during the range of mortality expectancy period as derived from experimentation or data.

9. In these circumstances, the State Government in order to have a broader application of the policy decision proceeded to lay

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down the parameters for entitlement of ex-gratia payment. Paragraph 12 of the impugned Government Order lays down three parameters. Firstly, COVID-19 deaths which occur within 30 days of the election duty would entitle a claim. Secondly, the test reports Antigen/RT PCR positive, blood report or CT Scan would be a sufficient proof to prove the death having occurred on account of COVID-19 and thirdly, an asymptomatic case meeting with the death on account of COVID-19 within 30 days of election duty was also covered under the scheme.

**10. In this background, three type of cases have emerged before this Court. In first category, the asymptomatic deaths having occurred within 30 days from the date of election duty on account of COVID-19 and in the second category, where symptoms were detected within a gap of 30 days from the date of election duty but the actual death occurred beyond 30 days from the date of election duty and, thirdly, where symptoms were detected beyond 30 days of election duty and death occurred within 30 days of detection of symptoms or later.**

11. The case put-forth by the State in response to the above situations in two fold. It is urged that the first category cases are not entitled to the ex-gratia payment as there is no proof of a deceased having contracting COVID-19 while on election duty and to deny the claim of second and third category, it is submitted that any death that has occurred beyond a period of 30 days from the date of election duty is not relatable to the election duty, hence the claim is liable to rejection.

12. Sri Ashok Khare, learned Senior Advocate appearing for the petitioners has argued in the light of order passed by the Apex Court on 4<sup>th</sup> October, 2021 passed in **Writ Petition (Civil) No. 539 of**

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2021 (**Gaurav Kumar Bansal Vs. Union of India and others**) but the guidelines embodied therein being of a later point of time do not provide us a complete answer. The ICMR guidelines pointed out also do not doubtlessly support or counter the stand of the State Government put-forth.

13. Learned counsel for the State has also laid emphasis on the point that the controversy involves a policy decision of the State based on the opinion of experts, therefore, the Court has no option of reading down the scope of Government Order otherwise than the manner in which it is supported by its scientific understanding. The submission put-forth is to the effect that any irrational or layman's understanding of the Government Order would bring in a heterogeneous classification or class within the class which shall offend the mandate of Article 14 of the Constitution of India. In support of the argument put-forth, learned Additional Advocate General for the State has relied upon certain decisions.

14. It is a well known fact that COVID-19 was witnessed no less than a largest precedented catastrophe leading to mortality of human lives on a very high scale. The scientific advancement was almost bent on its knees to acknowledge helplessness, yet, some how the preventive measures sensitised by the State coupled with medical aid overcame upon the threat to human life for restoration of normalcy. It is not to forget that the behavioural obedience i.e. use of mask and following guidelines on free movement was as significant as the medicinal values and much was attributed to the superstitions as well. In the general perception of the people, the asymptomatic and symptomatic cases of COVID-19 were marginally distinct and in both the type of cases, the common cause was Covid infection. It is not the case before us that the



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deaths have not occurred because of COVID-19 but what is disputed is that the deaths having taken place beyond 30 days from the date of election duty would not entitle the dependants for the ex-gratia payment. This defence is based on Clause-12 of the Government Order dated 1<sup>st</sup> June, 2021 impugned herein this bunch of writ petitions.

**15. In the background stated above, the question that crops up for consideration is as to whether a COVID-19 death for the purposes of ex-gratia payment is rightly regulated and understood by the executive as per Clause-12 of the Government Order, if not, whether the defence put forth is violative of the object of equality read with the purpose of Section 12(iii) of the Act of 2005.**

16. This Court may note that the life and its dignified protection is the first and foremost duty of the welfare state. During the course of disaster management, certain duties on the part of the State assume more significance. We have experienced that during COVID-19, broader guidelines striking note of caution were issued from time to time to restrict free movement, yet for the purposes of governance within our democratic organization, the guidelines prohibiting assembly had to be compromised by the State of U.P. itself so as to carry out the U.P. Panchayat Elections in furtherance of the mandate of law. The sovereign function thus necessitated the engagement of human resource in bulk which necessarily visited the state with a more onerous duty to protect the lives of those who were engaged in election duty. It is needless to reiterate that the protection of life of all such individuals engaged in election duty even on a single day during COVID-19 became an absolute duty of the State. The State at the time of

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outbreak of pandemic remained under an obligation to free the environment from the probabilities of outbreak or spread of infection and the hospital services were equally liable to be maintained conducive to the survival of human life. In the case at hand, all these claims where the persons sent on election duty died of COVID-19, it necessarily must be understood that all such persons for the purpose of care, treatment and protection of life remained at the mercy of the State. The wisdom of the policy devised by the State lies in meeting the emerging situation for the dependants of a COVID-19 victim, therefore, equal treatment of all is bound to be achieved by adopting a pragmatic approach.

17. Having regard to the three parameters provided in para-12, this Court would note that any case detected beyond the period of 30 days from election duty as covid positive is certainly a category not covered under the scheme. The death of asymptomatic cases within 30 days of election duty as per the mandate of government order is covered under the G.O. Provided the death certificate on account of COVID-19 is produced by the claimants. This principle broadens the scope of G.O. for symptomatic cases where the infection after election duty was detected within 30 days, however, death in such a case occurred beyond the period of 30 days. The two situations that deserve to be treated at par are; firstly, where the death occurred due to covid-19 within a period of 30 days of participation in election duty in an asymptomatic case and; secondly, where the infection of COVID-19 was detected within 30 days of election duty but the death occurred thereafter during treatment or otherwise.

18. The bar of 30 days period in the cases where infection was detected within 30 days of election duty but death occurred

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beyond the same is not attributable to any negligence on the part of victim that would defeat the claim rather it is owing to the lack of extra ordinary care or treatment of which the duty would lay on the State. Therefore, all the detected cases within 30 days of election duty cannot be segregated from those where the infection despite remaining undetected resulted into the death of a victim due to COVID-19 within the period prescribed i.e. 30 days. Any other principle derived by the State on the basis of scientific understanding is bound to defeat the very object of the Government Order and the purpose will frustrate. It is not necessary for the State Government to adhere to the strict scientific principles in the matter of situations which went beyond the control of scientific means, therefore, the State Government in its caveat cannot impose an embargo upon the Courts of law to construe the scope of policy strictly within the scientific principles.

19. The scientific understanding alone is not decisive to implement the policy of the State which by its very nature is a mix of multiple variables. The State is not to be guided by the laboratory results or publication in journals alone but what is relevant is the impact of a disaster as it may be understood in common parlance not opposed to scientific principles altogether. Scientific temper is itself a matter of concern and debatable. For example the elephant's head on the holy mankind body of 'deity' of Lord Ganesha may or may not be opposed to scientific beliefs but it accompanies our mystical belief from ages and likewise many more. The scientific discoveries and inventions promote scientific temper but failure of science is bound to leave a grey area for our personal faith, traditional usages, beliefs and superstitions until modern science or spiritual attainments unfold the absolute truth.

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By quoting one instance, it is not meant to hurt anyone's sentiments rather is illustrative of our understanding. Embracing personal faith, usages, belief and superstitions besides scientific temperament is the beauty of Article 21 of the Constitution of India within which the horizons of our freedom grow for an inclusive dignified existence. This, however, does not suggest that the State has a religion as opposed to democracy that guarantees the rule of law to achieve the object of equality amongst the citizens.

20. This Court would thus reject the argument of the State to approach the issue at hand purely on the basis of scientific principles as portrayed on the strength of some publication in the Lancet Journal and expect the State to implement the impugned clause of Government Order dated 1<sup>st</sup> June, 2021 without discriminating between the deaths of asymptomatic and symptomatic cases on the yardstick of 30 days from the date of election duty. It must be read beneficially for those cases too which were detected within 30 days and in that event, the date of death would become immaterial once it is on account of COVID-19.

21. The constitutional morality under the directive principles of the State is well reflected from Article 38 of the Constitution of India which postulates eradication of inequality. This Article is the driving force of the public policy and offers ample guidance to the executive as well as all other organs of the State to streamline the beneficent decisions serve the purpose and object of social and economic justice equally. The apex court as far back as in the decision reported in (2008) 2 SCC 672 (**Delhi Development Authority, & another vs. Joint Action Committee, Allottee of SFS Flats & Ors**) in para-65

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observed as under:

*"65. Broadly, a policy decision is subject to judicial review on the following grounds :*

*(a) if it is unconstitutional;*

*(b) if it is de hors the provisions of the Act and the Regulations;*

*(c) if the delegatee has acted beyond its power of delegation;*

*(d) if the executive policy is contrary to the statutory or a larger policy."*

In a recent decision of the apex court reported in (2021) 7 SCC 772 (*Distribution of Essential Supplies and Services During Pandemic, In Re.*), the apex court has succinctly dealt with the permissible extent of judicial review in policy decisions of the State and for our purpose paras 15 to 19 of the judgement being relevant are extracted as under:

"15. It is trite to state that separation of powers is a part of the basic structure of the Constitution. Policy-making continues to be in the sole domain of the executive. The judiciary does not possess the authority or competence to assume the role of the executive, which is democratically accountable for its actions and has access to the resources which are instrumental to policy formulation. However, this separation of powers does not result in courts lacking jurisdiction in conducting a judicial review of these policies. Our Constitution does not envisage courts to be silent spectators when constitutional rights of citizens are infringed by executive policies. Judicial review and soliciting constitutional justification for policies formulated by the executive is an essential function, which the courts are entrusted to perform.

16. We had clarified in our order dated 30 April 2021, that in the context of the public health emergency with which the country is currently grappling, this Court appreciates the dynamic nature of the measures. Across the globe, the executive has been given a wider margin in enacting measures which ordinarily may have violated the liberty of individuals, but are now incumbent to curb the pandemic. Historically, the judiciary has also recognized that constitutional scrutiny is transformed during such public health emergencies, where the executive functions in rapid consultation with scientists and other experts. In 1905, the Supreme Court of the United States in *Jacobson vs*

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Massachusetts` considered a constitutional liberty challenge to a compulsory vaccination law that was enacted to combat the smallpox epidemic. Harlan, J had noted the complex role of the Government in battling public health emergencies in the following terms (Jacobson case SCC OnLine US SC paras 6 and 18):

“6.....the State may invest local bodies called into existence for purposes of local administration with authority in some appropriate way to safeguard the public health and the public safety...

18.....While this court should guard with firmness every right appertaining to life, liberty or property as secured to the individual by the Supreme Law of the Land, it is of the last importance that it should not invade the domain of local authority except when it is plainly necessary to do so in order to enforce that law. The safety and the health of the people of Massachusetts are, in the first instance, for that Commonwealth to guard and protect.....So far as they can be reached by any government, they depend, primarily, upon such action as the State in its wisdom may take, and we do not perceive that this legislation has invaded any right secured by the Federal Constitution.”

17. The Supreme Court of United States, speaking in the wake of the present COVID-19 pandemic in various instances, has overruled policies by observing, inter alia, that *“Members of this Court are not public health experts, and we should respect the judgment of those with special expertise and responsibility in this area. But even in a pandemic, the Constitution cannot be put away and forgotten”* and *“a public health emergency does not give Governors and other public officials carte blanche to disregard the Constitution for as long as the medical problem persists. As more medical and scientific evidence becomes available, and as States have time to craft policies in light of that evidence, courts should expect policies that more carefully account for constitutional rights”*.

18. Similarly, courts across the globe have responded to constitutional challenges to executive policies that have directly or indirectly violated rights and liberties of citizens. Courts have often reiterated the expertise of the executive in managing a public health crisis, but have also warned against arbitrary and irrational policies being excused in the garb of the “wide latitude” to the executive that is necessitated to battle a pandemic. This Court in *Gujarat Mazdoor Sabha vs State of Gujarat*, albeit while speaking in the context of labour rights, had noted that policies to counteract a pandemic must continue to be evaluated from a threshold of proportionality to

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determine if they, inter alia, have a rational connection with the object that is sought to be achieved and are necessary to achieve them.

19. In grappling with the second wave of the pandemic, this Court does not intend to second-guess the wisdom of the executive when it chooses between two competing and efficacious policy measures. However, it continues to exercise jurisdiction to determine if the chosen policy measure conforms to the standards of reasonableness, militates against manifest arbitrariness and protects the right to life of all persons. This Court is presently assuming a dialogic jurisdiction where various stakeholders are provided a forum to raise constitutional grievances with respect to the management of the pandemic. Hence, this Court would, under the auspices of an open court judicial process, conduct deliberations with the executive where justifications for existing policies would be elicited and evaluated to assess whether they survive constitutional scrutiny."

22. The ex-gratia payment payable by the State was notified in terms of Section 38 of the Act of 2005 referred to above and this was a promise held to the dependants of any such person who died due to COVID-19 having contracted the infection while on election duty. The compensation for loss of life certainly is an actionable claim and it is for this reason that Section 71 of the Act of 2005 provides as under:-

*"71. Bar of jurisdiction of court. —No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.*

23. We must remember that the State is not to be driven by the scientific understanding of situation alone but what is relevant is the general perception of people which settles for acceptance. If judiciary cannot form an opinion contrary to law, it equally applies on the executive not to lose sight of the purpose for which laws are made. Scientific reasons are not always sacrosanct

but what remains is the purpose and objects of legislation.

24. The Supreme Court as well as the High Courts have been empowered to entertain any suit or proceeding in respect of anything done, action taken, orders made etc. by the respective authorities/ governments.

25. Therefore, for any claim that has trammelled in law through a government order within the scope of Section 12 read with Section 38 of the Act of 2005, the jurisdiction has been vested in the Supreme Court of India and the High Courts to entertain a proceeding of suit or other proceeding, hence this Court is convinced that all the writ petitions filed for payment of ex-gratia amount are maintainable. This is, however, not to suggest that Article 21 of the Constitution of India in the matter of pandemic or disasters imposes a blanket pecuniary liability upon the State as regards the loss of life of citizens or their property to which any negligence of the State authorities or agents or misconstruction of a policy decision arrived at for a larger purpose is an exception. It can, therefore, be inferred that a suit for recovering damages as a measure of compensation can be filed against the State for negligence of its agents within the scope of Section-9 CPC unless specifically barred by law or necessary intendment. Section-71 reproduced above supports the position of law and is well supported by a decision of the apex court reported in **AIR 1969 SC 78 (Dhulabhai etc. v. State of M.P. and another)**.

26. This Court may further note that Section 73 and 74 of the Disaster Management Act protect the State and its agents or officers from any legal action for anything done in good faith. The statutory protection, however, does not render a suit or proceeding non-maintainable for it may be possible for the claimant to



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establish by leading evidence that action or omission was deliberate and not in good faith. This Court may take note of the definition of 'good faith' as provided under Section-52 of Indian Penal Code as under:

**"52. "Good faith".**—Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention."

The negligence co-exists with bad faith. The burden of proof shall lay heavily on the claimants but it does not render the suit or claim as non-maintainable.

27. The position of law is further supported under an apex court judgement reported in **(1994) 6 SCC 205 (N. Nagendra & Co. v. State of A.P.)** wherein it is held that the State cannot claim sovereign immunity from compensation due to negligence of its agents in cases directly resulting in breach of Article 21 of the Constitution of India. The decision holds good until now.

28. Thus, we are of the considered opinion that the field of compensation beyond the scope of section 12 (iii) of the Disaster Management Act, 2003 is well protected as against negligence or things not done in good faith irrespective of any measure such as ex-gratia but in the present case it is the claim of ex-gratia payment which we are concerned with.

29. Now coming to the aspect as to whether the victims named in the chart set out hereinabove have died of Covid-19 or otherwise. Sri Ashok Khare has taken us through the apex court judgement passed in the case of **Gaurav Kumar Bansal v. Union of India and others**. We find that deaths having taken place in the hospitals on account of Covid-19 fully stand the test of certification. The argument that the medical reports mentioning cardiac failure or otherwise may not be attributed to Covid-19

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does not impress the Court for the reason that Covid-19 is an infection that may result to the mortality of a person affecting any organ be it lungs or heart etc. Once the admission of deceased persons was on account of Covid-19, the resulting cause being heart failure or dysfunction of any other organ leading to death is immaterial and would nevertheless be treated as Covid-19 death. No other argument was advanced for our consideration, therefore, having given our anxious consideration, we allow the claims in terms of our observations made hereinabove.

27. As a result, all the writ petitions except *Writ-C No. 3276 of 2022 (Smt. Khushboo v. State of U.P. and others)* are allowed and the opposite parties are directed to release the ex-gratia payment to the dependents entitled thereto within a period of one month failing which the claims so allowed shall be made good inclusive of simple interest @ 9% p.m. from the date of judgement upto the date of actual payment.

The Writ-C No. 3276 of 2022 (*Smt. Khushboo v. State of U.P. and others*) is accordingly dismissed.

28. Each of the petitioners, whose claims are allowed shall be entitled to a cost of Rs. 25000/- in each case.

**Order Date :** July 25, 2022  
Bhaskar/Fahim