

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

AFFIDAVIT

IN

Civil Misc. Intervention Application No. of 2021

(Under Order XXII Rule 1 of the High Court Rules)

On behalf of:

Rahul Gangele Applicant

IN

Civil Misc. Public Interest Litigation No.574..... of 2020

(Article 226 of the Constitution of India)

DISTRICT: PRAYAGRAJ

In Re: Inhuman Condition At Quarantine Centers and For Providing

Better Treatment To Corona Positive Petitioner

VERSUS

State of U.P. Respondent

Affidavit of Rahul Gangele

(DEPONENT)

I, the deponent abovenamed, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant himself and he is filing a copy of his Aadhar Card bearing no. alongwith the affidavit and he is fully acquainted with the facts of the case deposed to below. The registered phone number of the applicant is .
2. That the applicant is a teacher working as in since .
3. That the applicant is espousing the cause of government teachers working in the State of Uttar Pradesh who have suffered irreparably due to the catastrophe caused by COVID-19 pandemic by either losing their lives while performing their duties in the prevalent conditions or have suffered lifetime ailments due the same and have not been compensated by the Government fairly and equally and have rather been discriminated against other government officers similarly working in the present situation.
4. That the present application is being filed seeking safeguarding of interest and protecting the fundamental rights of the Government teachers and their the family members and dependents who contacted COVID-19 infection while discharging the election duty during the Uttar Pradesh Panchayat elections held in the State of Uttar Pradesh during COVID-19 pandemic and succumbed to the infection and lost their lives.
5. That globally COVID-19 pandemic emerged as an unprecedented threat to mankind and has resulted in untimely deaths of innumerable lives across the globe during the past more than one year. India too has fallen into the trap of COVID-19 and has not

been spared by the pandemic due which it resulted in innumerable deaths.

6. That during the widespread Covid-19 pandemic, Uttar Pradesh Panchayat elections were conducted from 15.04.2021 to 29.04.2021 and the results were announced on 02.05.2021 and during the course of the aforesaid election process thousands of Government Employees and teachers in the State of U.P. were assigned election duty.
7. That the said duty included undertaking extensive training of teachers in order to fulfill the responsibility of the State to conduct free and fair elections and then deputing them at various election centers and polling booths across the State of Uttar Pradesh to conduct the elections.
8. That the Government teachers were deputed at remote corners and distant locations in the State far away from their place of residence and these areas had no medical facilities much less proper sanitization.
9. That in the State of Uttar Pradesh where COVID-19 has taken the form of a pandemic, the authorities which were holding the Panchayat elections were fully aware of the fact that crowding of public places was fatal as COVID-19 had already wrecked havoc and the danger of it further causing undue loss of lives was not over yet.
10. That despite the threat to their life and well being posed by the pandemic, the Government teachers of the State of Uttar Pradesh were compelled to discharge the election duties at the sole discretion of the Government regardless of the danger it posed to not only their lives but also to the lives of their family members to whom they were to eventually return after elections.

11. That the Government teachers were obligated to abide by the directions of the Government to undertake the training for election duties and also fulfill the said duties on polling booths and there was no question of their willingness but the compulsion to do the same.
12. That it was only through the support and duty performed by the Government teachers that the Panchayat elections could take place in the State fairly and smoothly.
13. That it is the fact of the matter that the Government teachers were deputed to fulfill the election duties in far flung rural areas where they were made to travel in Bus which were jam packed and no social distancing was observed in the Buses.
14. That the rural areas where the officers were deputed did not even have adequate social distancing and basic sanitization much less proper medical facilities.
15. That the Government teachers were made to come out of their house where they were atleast able to take care of themselves from contacting the virus and were exposed to the virus under the garb of election duties when no proper facilities were provided by the State to prevent the spreading of virus.
16. That about thousands of teachers across the State were deputed for the election duties and it is a fact that several hundreds of them contacted COVID-19 while performing election duties at such point in time when the entire State was engulfed with COVID-19.
17. That these thousands of teachers later returned to their homes to their families and several hundreds of them also contacted the virus from such teachers.

18. That no medical attention and care was provided to such employees and they rather left to suffer like others crying and begging for oxygen and medical care.
19. That several hundreds of Government employees succumbed to the COVID-19 and related ailments and infections which could have been easily avoided only if they were not made to come out in public to perform election duties when the entire State was fighting the virus.
20. That the Government teachers were made to perform official duties in the name of Panchayat elections in during COVID-19 pandemic and they are not less than COVID warriors.
21. That hundreds of teachers have unfortunately died while discharging their duties and have succumbed only because of performing the duties when the COVID-19 was already claiming hundreds of lives across the State.
22. That it is relevant to bring up before this Hon'ble Court that as the government staff and teachers were assigned on election duty by the Government of Uttar Pradesh it was the duty of the state of Uttar Pradesh to take steps for ensuring safety of its employees from the infection but it is only on account of failure of the Government of Uttar Pradesh to adhere to the COVID-19 protocol that such a large number of government employees and teachers suffered from covid-19 infection while discharging election duty.
23. That it is pertinent to bring up before this Hon'ble Court there are instances when government teachers who were on election duty and died due to COVID-19 and despite this the families received phone calls from the government officials/concerned officers of The State Election Commission who informed the families about the next

duty being assigned on which the family members responded that the person is no more and died of COVID-19.

24. That the above instances was one of the shameful act done by the government officials/concerned officers of the State Election Commission even after knowing that the persons are having symptoms of COVID-19 they pressurized them to perform the election duty assigned to them.
25. That it is vital to bring up before this Hon'ble Court that there are teachers who were doing their duty in the elections after which they tested positive for COVID-19 and currently they are fighting for their life and even today struggling for oxygen and ICU's.
26. That on 06.04.2021 this Hon'ble Court has given direction to the District Administration including Police Authorities to see that no crowding takes place in any place all over the State of U.P. and if it finds that any particular place is likely to get crowded, then it should cordon off that area and see that people do not huddle. This Hon'ble Court specifically directed that the Panchayat Elections should also be conducted in such a manner that no congregation of people takes place. Be it nomination, be it canvassing or be it the actual voting, it should be seen that all COVID-19 protocols are observed. Even after the directions of this Hon'ble Court there is failure on the part of the Government of Uttar Pradesh to adhere to the COVID-19 protocol that such a large number of government employees and teachers suffered from covid-19 infection while discharging election duty.
27. That it is submitted that the untimely death of government employees and teachers while discharging election duty has disrupted their families and many families have lost their sole bread

earner which has left the surviving family members in a state of destitution.

28. That vide order dated 7.4.2021, the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.- 10698 of 2021 recorded an undertaking by the State Election Commission that counting will be supervised through CCTV cameras to be installed at the designated counting centers and those who were in charge of the counting centers would be held responsible for any lapse regarding compliance of COVID-19 guidelines. It is thus clear that even after the statement given by the State Election Commission before the Apex Court the state election commission in connivance with the State Government did not adhere to the COVID-19 safety rules and regulations for conducting the elections, thereby avoided to stand by their statement given by them before the Supreme Court of India which is clearly a contempt of court.
29. That due to their avoidance, ignorance and negligence, huge numbers of teachers, staff etc who were on election duty had suffered irreparably and even today are suffering.
30. That even on 19.04.2021 this Hon'ble Court observed and showed displeasure on the way the Government and the State Election Commission proceeded to hold election forcing/compelling teachers and other government staff to perform duties exposing themselves to the threat of pandemic that looms large these days.
31. That the police was virtually shifted to polling places giving priority to election above public health.
32. That the Hon'ble Court in PIL No. 574 of 2020 also observed from the Photographs of various places filed before it where elections were held from which it is clearly evident that no social distancing was maintained. Also on many occasions in various political rallies

masks were never worn by people. The Hon'ble Court also gave its view that action is liable to be taken against the organizers who did not anticipate such eventualities under the Uttar Pradesh Public Health Epidemic Diseases Act, 2020 and/ or any other relevant Act in force.

33. That after realizing their ignorance, avoidance and negligence, the State of Uttar Pradesh has announced a decision to grant the compensation of Rs. 30 lakhs only to the family members and dependents of those government employees who had lost their lives while discharging election on account of COVID-19. A true copy of the order No. 868/33-1-2021-587/21 dated 08.05.2021 issued by the Additional Chief Secretary of the State of Uttar Pradesh is annexed herewith and is marked as ANNEXURE-1.
34. That it is stated that the State of Uttar Pradesh has till date has not done specific death audit on fatalities among teachers who were on election duty.
35. That at the outset it is stated that grant of only Rs. 30 lacs to the dependants of the family members of the teachers who lost their lives due to performance of election duties at the behest of the Government is not only inadequate but a mockery of the invaluable lives of warriors who succumbed to COVID only due to failure of the State to protect their lives and livelihood.
36. That the family members who have been left behind have virtually been pushed to poverty and destitution by the State.
37. That the Government teachers who succumbed to COVID-19 while performing election duties are no less than COVID warriors who were made to put their lives at stake at the pleasure of the Government and the least the Government should do know is to

provide respectable compensation and means of livelihood to their dependants.

38. That in stark contrast to the Government Order dated 8.5.2021, the State of Uttar Pradesh has issued a direction vide dated 05.05.2021 which provides for monetary compensation of Rs. 50 Lakhs to the families and dependents of those personnel who have lost their lives in prevention and treatment of COVID-19 pandemic. These personnel who laid their lives in treating and preventing the further spread of COVID-19 are also called “**Corona Warriors**”. A true copy of the letter dated 05.05.2021 is annexed herewith and is marked as ANNEXURE-2.
39. That the applicant submits that the action of the State of Uttar Pradesh in awarding different monetary compensations to the deceased government employees and teachers who lost their lives while discharging election duty instead of preventing themselves from COVID-19 and to those who lost their lives in prevention/treatment of COVID-19 is irrational, arbitrary, unreasonable and against the constitutional right to be treated equally.
40. That there is no justification on the part of the State of Uttar Pradesh to discriminate in respect of the amount of compensation between the aforesaid two categories and to award a lower compensation to the families/dependents of the deceased in the former category, when the death had occurred due to the same cause, viz. COVID-19 infection, while discharging the duty at the pleasure of the Government.
41. That it is submitted that the Government employees and teachers of the State of Uttar Pradesh, who lost their lives while discharging their official duties during the course of the panchayat elections are

also entitled to the status of the Corona Warriors and be compensated accordingly.

42. That discrimination in awarding compensation to the dependants of the Government teachers and medical personnel who laid their lives only to perform the duty given to them by the State during COVID-19 is in violation of Article 14 of the Constitution of India.
43. That there cannot be any reason whatsoever in discriminating against Government employees whether they are teachers or medical personnel in awarding compensation if there is a loss of life in performing the duties at the pleasure of the Government putting their life and livelihood at stake.
44. That if this discrimination is not put to check, the public confidence of general public, much less those of hand-to-mouth bread earners like Government teachers and staff will be shaken and eroded for all times to come.
45. That there has been a lack of adequate care and facilities which ought to have been provided by the State Election Commission as well as the State Government to the Government teachers and staff.
46. That hundreds of those teachers and staff have themselves succumbed to COVID-19 and several thousand others have lost their family members as they became carriers of virus when returned from election duties to their elder parents, husband and wives and children.
47. That there is no reason that they should now be discriminated in awarding reasonable compensation as if their lives were of no importance.
48. That free and fair elections are the heart soul of every democracy and that elections are an integral and inseparable part of democracy

and democratic process. It is submitted that it is the responsibility of the government to ensure welfare of those families/dependents whose earning members have sacrificed their lives for reinforcing the democratic process and therefore, it is also necessary for the government to ensure and provide compassionate appointment to one eligible member of the family of the deceased government employee, so that the family members are not required to face destitution, in the larger Interest of Justice.

49. That the deponent submits that free and fair elections are the heart and soul of every democracy and that elections are an integral and inseparable part of democracy and democratic process. It is submitted that it is the responsibility of the government to ensure welfare of those families/dependents whose earning members have sacrificed their lives for reinforcing the democratic process and therefore, it is also necessary for the government to ensure and provide compassionate appointment to one eligible member of the family of the deceased government employee, so that the family members are not required to face destitution, in the larger Interest of Justice.

50. That the action on the part of the State Government in granting lesser amount of compensation to those government employees who have lost their lives due to Covid-19 while discharging election duty is discriminatory and violative of the right to equality guaranteed under Article 14 of the Constitution of India being opposed to the constitutional concept of welfare state.

51. That if the instant application is not allowed the thousands of government teachers and staff and their family members will suffer irreparable loss, harm and injury and will be having a foot in the State forced poverty.

52 .That the deponent states that it has no other alternative and in any case equally efficacious remedy except to file the intervention application in the present public interest litigation.

53.That the cause of action and the jurisdiction of this intervention application are at every place within the jurisdiction of this Hon'ble Court.

54.That the above mentioned circumstances and factual scenario has necessitated the filing of the present Intervention before this Hon'ble Court.

That in view of what has been stated above, it is expedient in the interest of justice that this Hon'ble Court may be pleased to allow the intervention application and be pleased to:

- A. Issue writ in the nature of mandamus or any other appropriate order, writ or direction directing the respondent to provide equal treatment to the Government teachers / staff and their dependants / family members as has been done by the State Government in relation to other Government officers / personnel performing COVID-19 duties at the directions of the State Government while deciding *ex-gratia* compensation and other benefits; and
- B. Issue writ in the nature of mandamus or any other appropriate order, writ or direction the respondents for awarding additional monetary compensation of Rupees Fifty lakhs in default of providing the medical facilities to

the family members/dependents of those government employees who lost their lives during Covid-19 pandemic while discharging election duty.

C. Issue writ in the nature of mandamus or any other appropriate order, writ or direction the respondents to consider to remove the condition/compliance of submitting/filing ANTIGEN/RTPCR report showing virus detected while filing claim form by the family members of the government employees who have sacrifice their lives due to covid-19 infection while discharging election duty.

D. Issue writ in the nature of mandamus or any other appropriate order, writ or direction to the respondents to consider and provide compassionate appointment to the eligible family members of the government employees who have sacrifice their lives due to covid-19 infection while discharging the election duty.

E. Any other and further order which this Hon'ble Court deems fit in the facts and circumstances of the case.

That the contents of para nos. of this affidavit are true to my personal knowledge, contents of para nos.

of this affidavit it are based on perusal of records contents of para nos.

of this affidavit are based on information received and contents of para nos.

of this affidavit are based on legal device which I believe to be true that no

part of it is false and nothing material has been concealed in it.

SO HELP ME GOD.

(DEPONENT)

I, R. K. Sahu, Clerk to Sri Abhinav Gaur, Advocate High Court, Allahabad do hereby declare that the person making this affidavit and alleging himself to be the deponent is known to me from the perusal of papers produced by him in his case before me and he is the same person.

Date.

(CLERK)

Solemnly affirmed before me on _____ at a.m\p.m by the deponent who is identified by the aforesaid persons.

I have satisfied myself by examining the deponent that he has understood the contents of this affidavit which have been read over and explained to him.

Date.

(OATH COMMISSIONER)