

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH, JAIPUR

S. B. CIVIL WRIT PETITION NO._____/2021

Smt. Urmila

Vs

State of Rajasthan

List of Dates and Synopsis

11.4.2020/ 25.3.2021	Petitioner maintains the present petition seeking direction to the Government of Rajasthan to extend the benefit of order dated 11.4.2020 (Pension 05/2020) to <i>‘private doctors’</i> practising in all fields, whether belonging to Allopathic or Homeopathic or Ayurvedic system of medicine, who have died of Covid-19, for <i>ex-gratia</i> payment /compensation of <i>Rs 50 Lacs</i> to their families and dependents, when even <i>‘ration dealers’</i> and <i>‘accredited journalists’</i> have been included in the ambit of order dated 11.4.2020 <i>supra</i> by order dated 25.3.2021, entitling their family members or dependents to receive <i>ex-gratia</i> payment / compensation of <i>Rs 50 Lacs</i> , in the event of their death due to Covid-19 .
	Facts in brief necessary to appreciate the

	controversy are as follows:-
6.8.2020	That, petitioner is a hapless wife of Dr Kamal Kant, a practicing Homeopath, who died of Covid-19 on 6.8.2020.
9.9.1969	That, deceased husband of the petitioner passed his secondary examination in science stream from Board of Secondary Education, Ajmer in the year 1969.
4.6.1972	Passing of secondary examination by husband of petitioner was succeeded by passing of Higher Secondary Examination from the same Board in the year 1972.
13.10.1978	Thereafter husband of the petitioner acquired qualification of Diploma of Homeopathic Medicine and Surgery from Nehru Homeopathic Medical College, New Delhi and was consequently stood registered as ' <i>practitioner</i> ' in Homeopathy by the Board of Homeopathic System of Medicine, Delhi, vide Certificate of Registration No. 1341 dated 13.10.1978.
10.5.1980	Husband of petitioner qualified the proficiency examination of Science and Art of Homeopathic Medicine and Surgery held in May, 1978 and was consequently granted Diploma in Homeopathic Medicine and Surgery on 10 th May, 1980.
2.9.2015	Board of Homeopathic System of Medicine, Delhi reiterated life-long registration of husband of the

	petitioner in Homeopathy on 2.9.2015.
	Since acquiring of qualification of Diploma in Homeopathic Medicine and Surgery, husband of the petitioner had been practising Homeopathy in Ajmer. Firstly, he ran his private dispensary at Ghee Mandi Gate, Naya Bazaar, Ajmer along with his father Dr Nand Lal, who was a well known homeopath of Ajmer. Later on husband of petitioner shifted his Homeopathic Clinic from Ghee Mandi Gate, Ajmer to Christian Ganj, Ajmer and till his untimely demise due to Covid-19, ran the same at latter place.
25.3.2020	Covid-19 pandemic struck India in the beginning of Year 2020, which led to the declaration of National Lock Down w.e.f. 25.3.2020 by order dated 24.3.2020 issued by Ministry of Home Affairs.
	In sequel to the order dated 24.3.2020, guidelines were issued by Government of India regarding measures to be taken by Ministries and Department of Government of India, State and Union Territory Governments and State and Union Territory Authorities for containment of Covid-19 epidemic in the country.
26.3.2020	That, to carry out the National Lock Down Order dated 24.3.2020, Government of Rajasthan issued an order 26.3.2020.

	That, bare perusal of Guidelines issued by Government of India and Government of Rajasthan (<i>Annexure-8 and Annexure-9</i>) would demonstrate that hospitals, dispensaries, clinics, nursing homes, both in public and private sector were kept out of ambit of lock down and it was specifically stated that they would remain functional.
	In sequel to guidelines, husband of the petitioner kept his Homeopathic Dispensary/Clinic functional throughout Lock Down and during period of extended Lock Down and served his patients.
6.8.2020	Husband of the petitioner contracted corona infection while running his homeopathic clinic and died of Covid-19 on 6.8.2020 at Mahatma Gandhi Medical College and Hospital, Sitapura, Jaipur.
14.8.2020	Because of death of husband of petitioner had taken place due to Covid-19 his cremation had to take place at Jaipur. Death certificate stood issued by Sanganer Zone of Jaipur Municipal Corporation on 14.8.2020.
11.4.2020	In order to support the families of Government servants who die of Covid-19, Government of Rajasthan issued an order on 11.4.2020 (Pension 04/2020) declaring ex-gratia payment/

	compensation of Rs 50 Lacs to the families of deceased Government servant who die of Covid-19 infection, while discharging their duties to prevent corona infection.
11.4.2020	Government of Rajasthan issued yet another order on 11.4.2020 (Pension 05/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of contractual employees (sanitation workers, health workers) and employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha etc., who die of Covid-19 infection while discharging their duties to prevent corona infection.
25.3.2021	Amplifying the scope of order dated 11.4.2020 (Pension 02/2020) Government of Rajasthan has issued an order 25.3.2021 including even ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> ' among the beneficiaries of order dated 11.4.2020 (Pension 05/2020).
	As a consequence of inclusion of ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> ' in the order dated 11.4.2020, if any person belonging to aforesaid category die of Covid-19, his or her family would be entitled to receive ex-gratia compensation of Rs 50 Lacs from State at par with Government

	Employees and at par with contractual employees (sanitation workers, health workers etc.) and at par with employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha etc.
	<p><i>'Doctors'</i> either working in the public sector or in the private sector or running individual clinics or dispensaries are more prone to corona infection, as compared to <i>'ration dealers'</i> and <i>'accredited journalists'</i> therefore their families are required to be more protected by extension of the benefit of order dated 11.4.2020. It is submitted that <i>'ration dealers'</i> and <i>'accredited journalists'</i> are not even remotely connected to treatment of patients, yet umbrella of order dated 11.4.2020 has been extended to them. Private Doctors, treating all type of patients, have a very highly probability of contracting corona infection from patients who visit them for their treatment. Thus, private doctors are required to be mandatorily included in the ambit of order dated 11.4.2020 (Pension 05/2020) when by order dated 25.3.2021 <i>'ration dealers'</i> and <i>'accredited journalists'</i> have been included in the order dated 11.4.2020, thus entitling their families or dependents to receive Rs 50 Lacs as ex-gratia payment/compensation in</p>

	the event of their death due to Covid-19.
	<i>‘Private doctors’</i> stands on a better footing than <i>‘Ration Dealers’</i> and <i>‘Accredited Journalists’</i> when it comes to extension of benefit of ex-gratia payment /compensation under the order dated 11.4.2020, Therefore, private doctors are necessarily required to included in the order dated 11.4.2020, when <i>‘Ration Dealers’</i> and <i>‘Accredited Journalists’</i> have been ordered to be included in the order dated 11.4.2020 by order dated 25.3.2021.
	Sequentially, as a consequence of inclusion of private doctors/practitioners within the ambit of order dated 11.4.2020 and order dated 25.3.2021, petitioner is entitled to get ex-gratia payment/ compensation of Rs 50 Lacs because her husband-Dr Kamal Kant, a practicing Homeopath, died of Covid-19.
	Petitioner maintains the present petition for the relief prayed for in the writ petition on following cogent grounds inter alia amongst others:-
(I)	Covid-19 pandemic struck India in the beginning of Year 2020, which led to the declaration of National Lock Down w.e.f. 25.3.2020 by order dated 24.3.2020 issued by Ministry of Home Affairs. In sequel to order dated 24.3.2020,

	<p>guidelines were issued by Government of India regarding measures to be taken by Ministries and Department of Government of India, State and Union Territory Governments and State and Union Territory Authorities for containment of Covid-19 epidemic in the country. To carry out the National Lock Down Order dated 24.3.2020, Government of Rajasthan issued an order 26.3.2020. Bare perusal of Guidelines issued by Government of India and Government of Rajasthan (<i>Annexure-8 and Annexure-9</i>) would demonstrate that hospitals, dispensaries, clinics, nursing homes, both in public and private sector were kept out of ambit of lock down and it was specifically stated that they would remain functional. In sequel to guidelines, husband of the petitioner kept his Homeopathic Clinic functional throughout the Lock Down and served his patients and while treating patients contracted corona infection and consequently died of Covid-19 on 6.8.2020 at Mahatma Gandhi Medical College and Hospital, Sitapura, Jaipur. In view thereof, petitioner is entitled to be compensated by the Government for loss of life of her husband as she was totally dependent upon him for her survival. After demise of her husband, petitioner and her only son is facing deeply</p>
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	penurious situation, which cannot be expressed in words. She is entitled to be compensated by the Government of Rajasthan by making her ex-gratia payment /compensation of Rs 50 Lacs as it is being done in the cases ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> '.
(II)	In order to support the families of Government servants who died of Covid-19, Government of Rajasthan issued an order on 11.4.2020 (Pension 04/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of deceased Government servant who died of Covid-19 infection, while discharging their duties to prevent corona infection. Government of Rajasthan issued yet another order on 11.4.2020 (Pension 05/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of contractual employees (sanitation workers, health workers etc.) and employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha etc., who died of Covid-19 infection while discharging their duties to prevent corona infection. Amplifying the scope of order dated 11.4.2020 (Pension 05/2020) Government of Rajasthan issued an order 25.3.2021 including even ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> '

	<p>among the beneficiaries of order dated 11.4.2020.</p> <p>As a consequence of inclusion of persons belonging to aforesaid category, if a person belonging of aforesaid category i.e. '<i>Ration Dealers</i>' and '<i>Accredited Journalists</i>' dies of Covid-19, his or her family would be entitled to receive ex-gratia compensation from State at par with Government Employees or at par with contractual employees (sanitation workers, health workers etc.) and at par with employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha. Private Doctors having not being included in the aforesaid orders dated 11.4.2020 and 25.3.2021, their families are not entitled even for a single rupee, if he or she is running private clinic or dispensary and die of Covid-19, while attending and treating patients suffering from myriad diseases, including corona infection. Thus, private doctors are necessarily required to be extended the benefit of order dated 11.4.2020 (Pension 05/2020) entitling their families or dependents to receive Rs 50 Lac <i>ex-gratia</i> payment/compensation in the event of their death due to Covid-19.</p>
(III)	<p><i>'Doctors'</i> irrespective of the fact whether they</p>

	<p>work in public sector or private sector or they run private clinics or dispensaries are prone to infections, therefore their families are required to be protected and extended the benefit of order dated 11.4.2020, more so when benefit of ex-gratia compensation has been extended to even <i>'Ration Dealers'</i> and <i>'Accredited Journalists'</i>, who are not even remotely connected to treatment of patients.</p>
(IV)	<p>When umbrella of order dated 11.4.2020 has been extended to <i>'Ration Dealers'</i> and <i>'Accredited Journalists'</i> vide order dated 25.3.2021, case of private doctors stand on a better footing. They are highly prone to contract infection from patients who visit them for their treatment. Thus, benefit of order dated 11.4.2020 needs to be extended to private doctors and consequently family members or dependents of private doctors, who die of Covid-19, needs to be granted ex-gratia compensation of Rs 50 Lacs.</p>
(V)	<p>Sequentially, as a consequence of extension of benefit of order dated 11.4.2020 to private doctors in tandem with the order dated 25.3.2021 whereby even <i>'Ration Dealers'</i> and <i>'Accredited Journalists'</i> have been included, petitioner is entitled to get ex-gratia compensation of Rs 50 Lacs because her husband ran a Homeopathic</p>

	Clinic amidst pandemic and died of Covid-19 because of contracting corona infection, while attending and treating his patients.
(VI)	It is submitted doctors, whether working in public sector or private sector or running private clinic and dispensaries, have always been the spine of the society. They cannot be left high and dry in the hours of crises on the premise that they are not employed with the Government. When contractual employees and employees working on honorarium basis, who are not substantively appointed with the Government and when even ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> ', who are no way connected with treatment of patients could be included in the ambit of order dated 11.4.2020, there is no justification for non-inclusion of private doctors, who are treating patients of myriad diseases, including patients of corona infection. Thus, benefit of order dated 11.4.2020 needs to be extended to private doctors, more so when benefit has been extended to ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> ' vide order dated 25.3.2021.
(VII)	Granting the benefit of order dated 11.4.2020 thus permitting ex-gratia compensation of Rs 50 Lacs to the families of ' <i>Ration Dealers</i> ' and ' <i>Accredited Journalists</i> ' who have died of Covid-19

	and not granting the same to the families of <i>'private doctors'</i> dying of Covid-19 is absolutely unreasonable, grossly irrational and per se discriminatory making it violative of Article 14 and Article 21 of the Constitution of India.
(VIII)	There exist no privity of contract between Government and <i>'ration dealers'</i> and <i>'accredited journalists'</i> , yet Government has bestowed the benefit of ex-gratia payment /compensation to them in the event of their death due to Covid-19. Private Doctors, by any means, stands on a better footing entitling their families to more protection than <i>'ration dealers'</i> and <i>'accredited journalists'</i> in the event of death by Covid19 and if not more than at least at par with them.
(IX)	Health care facilities imparted by the state, though huge, is unable to cater each and every citizen, which is palpable from burgeoning fatalities due to Covid-19. In such circumstances, private medical practitioners are accessible to citizens, which makes former vulnerable to infection. In such circumstances, families of private doctors cannot be denuded of the benefit of ex-gratia payment or compensation in event of death of private practitioner due to Covid-19 more so when even <i>'ration dealers'</i> and <i>'accredited journalists,'</i> who have no nexus with the

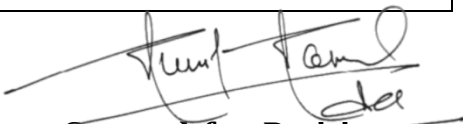
	treatment of patients, have been brought in purview of order dated 11.4.2020 vide order dated 25.3.2021 and their families have been extended the benefit of ex-gratia payment /compensation of Rs 50 Lacs in the event of their death due to Covid-19.
(X)	That, every doctor, whether working in Government institutions or private hospital or running his private dispensary or clinic takes Hippocratic oath to treat patients to the best of his ability. Thus, private doctors cannot refuse to treat patients. In such circumstances, if private practitioner catches corona infection and die of Covid-19, State cannot leave the family in lurch on the premise that there do not exists any privity between it and the private practitioner, more so when it has chosen to the include even ' <i>ration dealers</i> ' and ' <i>accredited journalists</i> ' in the order dated 11.4.2020 vide order dated 25.3.2021, even when they are not remotely connected to treatment of patients.
(XI)	All doctors, irrespective of fact whether they are treating Covid-19 patients or not are frontline warriors against the pandemic. Recognising the importance of doctors in fighting against this perilous pandemic, all the doctors were permitted to keep their establishments open during

	<p>Lockdown to give succour to needy patients. All other diseases continued to co-exist with Covid-19 and thus Government is under an obligation to insure welfare of private doctors, who are treating patients and to see that welfare of their families is taken due care, in case of private doctor contracts corona infection while treating his patients and dies thereof.</p>
(XII)	<p>That, all doctors have been the backbone of the health care system country during the pandemic. If private doctors were to refuse treatment of patients fearing transmission of virus then situation would have grimmer today. Thus, private doctors are required to be extended the benefit of coverage of order dated 11.4.2020, entitling their family to receive Rs 50 lacs as ex-gratia payment/ compensation in the event of their death due to Covid-19.</p>
(XIII)	<p>That, it is the duty of the state to protect its citizens. Though state has strived very hard to reach to maximum people but it too has got certain limitations. People who are not able to get themselves treated at the Government Hospital due to scarce resources get themselves treated by a nearby physician or private doctor taking into consideration degree of illness and availability of resources. Doctors who are working at Covid</p>

	<p>Centres or Covid dedicated hospitals know that they treating Covid-19 patients but private doctors are unaware about the diagnosis of the patient they are treating, which makes them even more vulnerable. Therefore, all private doctors are to be extended the coverage of order dated 11.4.2020. During pandemic, private doctors have also put their life on risk, therefore it is imperative that state extends the benefit of order dated 11.4.2020 (Pension 020/2020) to private doctors, more so when it has chosen to include even <i>'ration dealers'</i> and <i>'accredited journalists'</i> who are not even remotely connected to treatment of patients.</p>
(XIV)	<p>Covid-19 is a notified disaster under Section 2(d) of National Disaster Management Act, 2005. Section 12 of the said act imposes an obligation on state to provide minimum standards of relief to be provided to persons affected by disaster. It mandates state to make special provisions for widows and orphans and also provide ex-gratia assistance on account of loss of life. Section 12 of NDMA is reproduced herein below for ready and reference:-</p> <p>12. Guidelines for minimum standards of relief.—<i>The National Authority shall recommend guidelines for the minimum standards of relief to</i></p>

	<p><i>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.</i></p> <p>In view of above provisions, plight of widows of doctors needs to be addressed realising the fact that their husbands have sacrificed their lives for maintaining the health of the society. Therefore, private practitioners, needs to be extended the benefit of the order dated 11.4.2020, more so when '<i>ration dealers</i>' and '<i>accredited journalists</i>' who are not even remotely connected to treatment of patients are extended the benefit of order dated 11.4.2020 (Pension 05/2020). This could be small way to help families of private doctors, who have succumbed to Covid-19 while serving the mankind.</p>
(XV)	<p>Private Doctors too are toiling day and night during this pandemic and are playing a quintessential role in keeping up the health of the society. In these difficult times, private doctors</p>

	<p>are catering to the other mundane health problems which are also necessary to be cured apart from Covid-19. They are fulfilling their duty bestowed upon them despite the risk of getting infected by the corona virus. Therefore, the State is under obligation to extend the protective umbrella of order dated 11.4.2020 to private doctors, more so when they have chosen to protect even '<i>ration dealers</i>' and '<i>accredited journalists</i>', who are no way remotely connected to treatment of patients. Families of private doctors have better right to be extended the benefit of order dated 11.4.2020 (Pension 05/2020).</p>
	<p>Thus, the present petition.</p>


Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH, JAIPUR**

S. B. CIVIL WRIT PETITION NO._____/2021

Smt. Urmila wife of Late Dr Kamal Kant

-Petitioner

Versus

State of Rajasthan through Chief Secretary, State Secretariat,
Bhagwan Das Road, Jaipur.

-Respondent

S. B. CIVIL WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

AND

IN THE MATTER OF ARTICLE 14 AND ARTICLE 21 OF THE
CONSTITUTION OF INDIA

AND

IN THE MATTER OF ORDER DATED 11.4.2020 GRANTING EX-
GRATIA PAYMENT / COMPENSATION OF RS 50 LACS TO THE
FAMILY MEMBERS OR DEPENDENTS OF GOVERNMENT
EMPLOYEES, DYING OF COVID-19.

AND

IN THE MATTER OF ORDER DATED 11.4.2020 GRANTING EX-GRATIA PAYMENT/ COMPENSATION OF RS 50 LACS TO THE FAMILY MEMBERS OR DEPENDENTS OF CONTRACTUAL EMPLOYEES (SANITATION WORKERS, HEALTH WORKERS, ETC.) AND EMPLOYEES WORKING ON HONOURARIUM BASIS SUCH AS HOME GUARDS, CIVIL DEFENCE PERSONNEL, ASHA SAHYOGINIS, AANGANVANI KARYAKARTAS, ANAGANVADI ASSISTANTS, MINI ASHA, ETC. DYING OF COVID-19.

AND

IN THE MATTER OF ORDER DATED 25.3.2021, WHEREBY '*RATION DEALERS*' AND '*ACCREDITED JOURNALISTS*' HAVE BEEN INCLUDED IN THE ORDER DATED 11.4.2020 (PENSION 05/20200) FOR THE PURPOSE OF GRANT OF BENEFIT OF EX-GRATIA PAYMENT /COMPENSATION OF RS 50 LACS IF AFORESAID CATEGORY OF PERSON DIE OF COVID-19.

AND

IN THE MATTER OF SEEKING EXTENSION OF BENEFIT OF ORDER DATED 11.4.2020 (PENSION 05/2020) TO THE FAMILIES / DEPENDENTS OF PRIVATE DOCTORS DYING OF COVID-19, WHILE RUNNING THEIR PRIVATE CLINICS / DISPENSARIES ENABLING THEM TO RECEIVE EX-GRATIA PAYMENT /COMPENSATION OF RS 50 LACS.

AND

IN THE MATTER OF ISSUANCE OF APPROPRIATE DIRECTION TO THE GOVERNMENT TO GRANT EX-GRATIA PAYMENT / COMPENSATION OF RS 50 LACS TO PETITIONER, AS HER HUSBAND DIED OF COVID-19, WHILE RUNNING HIS PRIVATE CLINIC / DISPENSARY, ATTENDING AND TREATING HIS PATIENTS.

TO,

HON'BLE THE CHIEF JUSTICE AND HIS COMPANION HON'BLE JUDGES OF HIGH COURT OF JUDICATURE FOR RAJASTHAN, JAIPUR BENCH, JAIPUR.

MAY IT PLEASE THE HON'BLE COURT:-

The petitioner, above named, most respectfully begs to submit as under:-

1. That, petitioner is a citizen of India and is entitled to invoke the jurisdiction of this Honourable Court for the relief prayed for in the writ petition.
2. That, the petitioner maintains the present petition seeking direction to the Government of Rajasthan to extend the benefit of order dated 11.4.2020 (Pension 05/2020) to '*private doctors*' practising in all fields, whether belonging to Allopathic or Homeopathic or Ayurvedic system of medicine, who have died of Covid-19, for *ex-gratia* payment

/compensation of Rs 50 Lacs to their families and dependents, when even '*ration dealers*' and '*accredited journalists*' have been included in the ambit of order dated 11.4.2020 *supra* by order dated 25.3.2021, entitling their family members or dependents to receive *ex-gratia* payment / compensation of Rs 50 Lacs, in the event of their death due to Covid-19 .

3. That, the facts in brief necessary to appreciate the controversy are as follows:-

- (i) That, petitioner is a hapless wife of Dr Kamal Kant, a practicing Homeopath, who died of Covid-19 on 6.8.2020.
- (ii) That, deceased husband of the petitioner passed his secondary examination in science stream from Board of Secondary Education, Ajmer in the year 1969. True and correct photocopy of the Certificate of Board of Secondary Education dated 9th September, 1969 is submitted herewith and marked as **Annexure-1**.
- (iii) That, passing of secondary examination by husband of petitioner was succeeded by passing of Higher Secondary Examination from the same Board in the year 1972. True and correct photocopy of the certificate of Higher Secondary Examination dated

4th June, 1972 is submitted herewith and marked as **Annexure-2.**

- (iv) That thereafter husband of the petitioner acquired qualification of Diploma of Homeopathic Medicine and Surgery from Nehru Homeopathic Medical College, New Delhi and was consequently stood registered as '*practitioner*' in Homeopathy by the Board of Homeopathic System of Medicine, Delhi, vide Certificate of Registration No. 1341 dated 13.10.1978. True and correct photocopy of Certificate of Registration dated 13.10.1978 is submitted herewith and marked as **Annexure-3.**
- (v) That, husband of petitioner qualified the proficiency examination of Science and Art of Homeopathic Medicine and Surgery held in May, 1978 and was consequently granted Diploma in Homeopathic Medicine and Surgery on 10th May, 1980. True and correct photocopy of Certificate of Diploma in Homeopathic Medicine and Surgery is submitted herewith and marked as **Annexure-4.**
- (vi) That, Board of Homeopathic System of Medicine, Delhi reiterated life-long registration of husband of the petitioner in Homeopathy on 2.9.2015. True and correct photocopy of Certificate of Registration dated

2.9.2015 is submitted herewith and marked as **Annexure-5.**

(vii) That, since acquiring of qualification of Diploma in Homeopathic Medicine and Surgery, husband of the petitioner had been practising Homeopathy in Ajmer. Firstly, he ran his private dispensary at Ghee Mandi Gate, Naya Bazaar, Ajmer along with his father Dr Nand Lal, who was a well known homeopath of Ajmer. Later on husband of petitioner shifted his Homeopathic Clinic from Ghee Mandi Gate, Ajmer to Christian Ganj, Ajmer and till his untimely demise due to Covid-19, ran the same at latter place. Original Copy of the Visiting Card of husband of petitioner, for ready reference and convenience, is placed on record as **Annexure-6.**

(viii) That, Covid-19 pandemic struck India in the beginning of Year 2020, which led to the declaration of National Lock Down w.e.f. 25.3.2020 by order dated 24.3.2020 issued by Ministry of Home Affairs. True and correct downloaded copy of Order No. 40-3/2020-DM-I (A) dated 24.3.2020 is submitted herewith and marked as **Annexure-7.**

(ix) That, in sequel to Order dated 24.3.2020 (Annexure-7), guidelines were issued by Government of India regarding measures to be taken by Ministries and

Department of Government of India, State and Union Territory Governments and State and Union Territory Authorities for containment of Covid-19 epidemic in the country. True and correct downloaded copy of guidelines issued under order dated 24.3.2020 is submitted herewith and marked as **Annexure-8**.

(x) That, to carry out the National Lock Down Order dated 24.3.2020, Government of Rajasthan issued an order 26.3.2020. True and correct downloaded copy of order dated 26.3.2020 is submitted herewith and marked as **Annexure-9**.

(xi) That, bare perusal of Guidelines issued by Government of India and Government of Rajasthan (*Annexure-8 and Annexure-9*) would demonstrate that hospitals, dispensaries, clinics, nursing homes, both in public and private sector were kept out of ambit of lock down and it was specifically stated that they would remain functional.

(xii) That, in sequel to guidelines, husband of the petitioner kept his Homeopathic Dispensary/Clinic functional throughout Lock Down and during period of extended Lock Down and served his patients.

(xiii) That, husband of the petitioner contracted corona infection while running his homeopathic clinic and

died of Covid-19 on 6.8.2020 at Mahatma Gandhi Medical College and Hospital, Sitapura, Jaipur. True and correct photocopy of the death summary of husband of the petitioner is submitted herewith and marked as **Annexure-10**.

(xiv) That, because death of husband of petitioner had taken place due to of Covid-19, his cremation had to take place at Jaipur. Death certificate stood issued by Sanganer Zone of Jaipur Municipal Corporation on 14.8.2020. True and correct photocopy of the death certificate dated 14.8.2020 is submitted herewith and marked as **Annexure-11**.

(xv) That, in order to support the families of Government servants who die of Covid-19, Government of Rajasthan issued an order on 11.4.2020 (Pension 04/2020) declaring ex-gratia payment/compensation of Rs 50 Lacs to the families of deceased Government servant who die of Covid-19 infection, while discharging their duties to prevent corona infection. True and correct downloaded copy of the order dated 11.4.2020 (Pension 04/2020) is submitted herewith and marked as **Annexure-12**.

(xvi) That, Government of Rajasthan issued yet another order on 11.4.2020 (Pension 05/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of

contractual employees (sanitation workers, health workers) and employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha etc., who die of Covid-19 infection while discharging their duties to prevent corona infection. True and correct downloaded copy of the order dated 11.4.2020 (Pension 05/2020) is submitted herewith and marked as **Annexure-13**.

(xvii) That, amplifying the scope of *Annexure-13*, Government of Rajasthan has issued an order 25.3.2021 including even '*Ration Dealers*' and '*Accredited Journalists*' among the beneficiaries of order dated 11.4.2020 (Pension 05/2020). True and correct downloaded copy of the order dated 25.3.2021 is submitted herewith and marked as **Annexure-14**.

(xviii) That, as a consequence of inclusion of '*Ration Dealers*' and '*Accredited Journalists*' in the order dated 11.4.2020, if any person belonging to aforesaid category die of Covid-19, his or her family would be entitled to receive ex-gratia compensation of Rs 50 Lacs from State at par with Government Employees and at par with contractual employees (sanitation workers, health workers etc.) and at par with

employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha.

- (xix) That, '*doctors*' either working in the public sector or in the private sector or running individual clinics or dispensaries are more prone to corona infection, as compared to '*ration dealers*' and '*accredited journalists*' therefore their families are required to be more protected by extension of the benefit of order dated 11.4.2020. It is submitted that '*ration dealers*' and '*accredited journalists*' are not even remotely connected to treatment of patients, yet umbrella of order dated 11.4.2020 has been extended to them. Private Doctors, treating all type of patients, have a very highly probability of contracting corona infection from patients who visit them for their treatment. Thus, private doctors are required to be mandatorily included in the ambit of order dated 11.4.2020 (Pension 05/2020) when by order dated 25.3.2021 '*ration dealers*' and '*accredited journalists*' have been included in the order dated 11.4.2020, thus entitling their families or dependents to receive Rs 50 Lacs as ex-gratia payment/compensation in the event of their death due to Covid-19.

(xx) That, '*private doctors*' stands on a better footing than '*Ration Dealers*' and '*Accredited Journalists*' when it comes to extension of benefit of ex-gratia payment /compensation under the order dated 11.4.2020, Therefore, private doctors are necessarily required to included in the order dated 11.4.2020, when '*Ration Dealers*' and '*Accredited Journalists*' have been ordered to be included in the order dated 11.4.2020 by order dated 25.3.2021.

(xxi) That, sequentially, as a consequence of inclusion of private doctors/practitioners within the ambit of order dated 11.4.2020 and order dated 25.3.2021, petitioner is entitled to get ex-gratia payment/ compensation of Rs 50 Lacs because her husband- Dr Kamal Kant, a practicing Homeopath, died of Covid-19.

4. That, the petitioner maintains the present petition for the relief prayed for on following cogent grounds inter alia amongst others:-

(i) That, Covid-19 pandemic struck India in the beginning of Year 2020, which led to the declaration of National Lock Down w.e.f. 25.3.2020 by order dated 24.3.2020 issued by Ministry of Home Affairs. In sequel to order dated 24.3.2020, guidelines were issued by Government of India regarding measures

to be taken by Ministries and Department of Government of India, State and Union Territory Governments and State and Union Territory Authorities for containment of Covid-19 epidemic in the country. To carry out the National Lock Down Order dated 24.3.2020, Government of Rajasthan issued an order 26.3.2020. Bare perusal of Guidelines issued by Government of India and Government of Rajasthan (*Annexure-8 and Annexure-9*) would demonstrate that hospitals, dispensaries, clinics, nursing homes, both in public and private sector were kept out of ambit of lock down and it was specifically stated that they would remain functional. In sequel to guidelines, husband of the petitioner kept his Homeopathic Clinic functional throughout the Lock Down and served his patients and while treating patients contracted corona infection and consequently died of Covid-19 on 6.8.2020 at Mahatma Gandhi Medical College and Hospital, Sitapura, Jaipur. In view thereof, petitioner is entitled to be compensated by the Government for loss of life of her husband as she was totally dependent upon him for her survival. After demise of her husband, petitioner and her only son is facing deeply penurious situation, which cannot be expressed in words. She is entitled to be compensated by the Government of Rajasthan by making her ex-gratia payment /compensation of Rs

50 Lacs as it is being done in the cases '*Ration Dealers*' and '*Accredited Journalists*'.

- (II) That, in order to support the families of Government servants who died of Covid-19, Government of Rajasthan issued an order on 11.4.2020 (Pension 04/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of deceased Government servant who died of Covid-19 infection, while discharging their duties to prevent corona infection. Government of Rajasthan issued yet another order on 11.4.2020 (Pension 05/2020) declaring ex-gratia compensation of Rs 50 Lacs to the families of contractual employees (sanitation workers, health workers etc.) and employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha etc., who died of Covid-19 infection while discharging their duties to prevent corona infection. Amplifying the scope of order dated 11.4.2020 (Pension 05/2020) Government of Rajasthan issued an order 25.3.2021 including even '*Ration Dealers*' and '*Accredited Journalists*' among the beneficiaries of order dated 11.4.2020. As a consequence of inclusion of persons belonging to aforesaid category, if a person belonging of aforesaid category i.e. '*Ration Dealers*' and '*Accredited Journalists*' dies of Covid-19, his or her family would

be entitled to receive ex-gratia compensation from State at par with Government Employees or at par with contractual employees (sanitation workers, health workers etc.) and at par with employees working on honorarium basis such as Home Guards, Civil Defence Personnel, Asha Sahyoginis, Aanganvani Karyakartas, Anaganvadi Assistants, Mini Asha. Private Doctors having not being included in the aforesaid orders dated 11.4.2020 and 25.3.2021, their families are not entitled even for a single rupee, if he or she is running private clinic or dispensary and die of Covid-19, while attending and treating patients suffering from myriad diseases, including corona infection. Thus, private doctors are necessarily required to be extended the benefit of order dated 11.4.2020 (Pension 05/2020) entitling their families or dependents to receive Rs 50 Lac *ex-gratia* payment/compensation in the event of their death due to Covid-19.

- (III) That, '*doctors*' irrespective of the fact whether they work in public sector or private sector or they run private clinics or dispensaries are prone to infections, therefore their families are required to be protected and extended the benefit of order dated 11.4.2020, more so when benefit of ex-gratia compensation has been extended to even '*Ration*

Dealers' and *'Accredited Journalists'*, who are not even remotely connected to treatment of patients.

- (IV) That, when umbrella of order dated 11.4.2020 has been extended to *'Ration Dealers'* and *'Accredited Journalists'* vide order dated 25.3.2021, case of private doctors stand on a better footing. They are highly prone to contract infection from patients who visit them for their treatment. Thus, benefit of order dated 11.4.2020 needs to be extended to private doctors and consequently family members or dependents of private doctors, who die of Covid-19, needs to be granted ex-gratia compensation of Rs 50 Lacs.
- (V) That, sequentially, as a consequence of extension of benefit of order dated 11.4.2020 to private doctors in tandem with the order dated 25.3.2021 whereby even *'Ration Dealers'* and *'Accredited Journalists'* have been included, petitioner is entitled to get ex-gratia compensation of Rs 50 Lacs because her husband ran a Homeopathic Clinic amidst pandemic and died of Covid-19 because of contracting corona infection, while attending and treating his patients.
- (VI) That, it is submitted doctors, whether working in public sector or private sector or running private clinic and dispensaries, have always been the spine

of the society. They cannot be left high and dry in the hours of crises on the premise that they are not employed with the Government. When contractual employees and employees working on honorarium basis, who are not substantively appointed with the Government and when even '*Ration Dealers*' and '*Accredited Journalists*', who are no way connected with treatment of patients could be included in the ambit of order dated 11.4.2020, there is no justification for non-inclusion of private doctors, who are treating patients of myriad diseases, including patients of corona infection. Thus, benefit of order dated 11.4.2020 needs to be extended to private doctors, more so when benefit has been extended to '*Ration Dealers*' and '*Accredited Journalists*' vide order dated 25.3.2021.

- (VII) That, granting the benefit of order dated 11.4.2020 thus permitting ex-gratia compensation of Rs 50 Lacs to the families of '*Ration Dealers*' and '*Accredited Journalists*' who have died of Covid-19 and not granting the same to the families of '*private doctors*' dying of Covid-19 is absolutely unreasonable, grossly irrational and per se discriminatory making it violative of Article 14 and Article 21 of the Constitution of India.

- (VIII) That, there exist no privity of contract between Government and '*ration dealers*' and '*accredited journalists*', yet Government has bestowed the benefit of ex-gratia payment /compensation to them in the event of their death due to Covid-19. Private Doctors, by any means, stands on a better footing entitling their families to more protection than '*ration dealers*' and '*accredited journalists*' in the event of death by Covid19 and if not more than at least at par with them.
- (IX) That, health care facilities imparted by the state, though huge, is unable to cater each and every citizen, which is palpable from burgeoning fatalities due to Covid-19. In such circumstances, private medical practitioners are accessible to citizens, which makes former vulnerable to infection. In such circumstances, families of private doctors cannot be denuded of the benefit of ex-gratia payment or compensation in event of death of private practitioner due to Covid-19 more so when even '*ration dealers*' and '*accredited journalists*,' who have no nexus with the treatment of patients, have been brought in purview of order dated 11.4.2020 vide order dated 25.3.2021 and their families have been extended the benefit of ex-gratia payment /compensation of Rs 50 Lacs in the event of their death due to Covid-19.

- (X) That, every doctor, whether working in Government institutions or private hospital or running his private dispensary or clinic takes Hippocratic oath to treat patients to the best of his ability. Thus, private doctors cannot refuse to treat patients. In such circumstances, if private practitioner catches corona infection and die of Covid-19, State cannot leave the family in lurch on the premise that there do not exists any privity between it and the private practitioner, more so when it has chosen to the include even '*ration dealers*' and '*accredited journalists*' in the order dated 11.4.2020 vide order dated 25.3.2021, even when they are not remotely connected to treatment of patients.
- (XI) That, all doctors, irrespective of fact whether they are treating Covid-19 patients or not are frontline warriors against the pandemic. Recognising the importance of doctors in fighting against this perilous pandemic, all the doctors were permitted to keep their establishments open during Lockdown to give succour to needy patients. All other diseases continued to co-exist with Covid-19 and thus Government is under an obligation to insure welfare of private doctors, who are treating patients and to see that welfare of their families is taken due care, in

case of private doctor contracts corona infection while treating his patients and dies thereof.

(XII) That, all doctors have been the backbone of the health care system country during the pandemic. If private doctors were to refuse treatment of patients fearing transmission of virus then situation would have grimmer today. Thus, private doctors are required to be extended the benefit of coverage of order dated 11.4.2020, entitling their family to receive Rs 50 lacs as ex-gratia payment/ compensation in the event of their death due to Covid-19.

(XIII) That, it is the duty of the state to protect its citizens. Though state has strived very hard to reach to maximum people but it too has got certain limitations. People who are not able to get themselves treated at the Government Hospital due to scarce resources get themselves treated by a nearby physician or private doctor taking into consideration degree of illness and availability of resources. Doctors who are working at Covid Centres or Covid dedicated hospitals know that they treating Covid-19 patients but private doctors are unaware about the diagnosis of the patient they are treating, which makes them even more vulnerable. Therefore, all private doctors are to be extended the

coverage of order dated 11.4.2020. During pandemic, private doctors have also put their life on risk, therefore it is imperative that state extends the benefit of order dated 11.4.2020 (Pension 020/2020) to private doctors, more so when it has chosen to include even '*ration dealers*' and '*accredited journalists*' who are not even remotely connected to treatment of patients.

- (XIV) That, Covid-19 is a notified disaster under Section 2(d) of National Disaster Management Act, 2005. Section 12 of the said act imposes an obligation on state to provide minimum standards of relief to be provided to persons affected by disaster. It mandates state to make special provisions for widows and orphans and also provide ex-gratia assistance on account of loss of life. Section 12 of NDMA is reproduced herein below for ready and reference:-

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.

In view of above provisions, plight of widows of doctors needs to be addressed realising the fact that their husbands have sacrificed their lives for maintaining the health of the society. Therefore, private practitioners, needs to be extended the benefit of the order dated 11.4.2020, more so when '*ration dealers*' and '*accredited journalists*' who are not even remotely connected to treatment of patients are extended the benefit of order dated 11.4.2020 (Pension 05/2020). This could be small way to help families of private doctors, who have succumbed to Covid-19 while serving the mankind.

- (XV) That, private Doctors too are toiling day and night during this pandemic and are playing a quintessential role in keeping up the health of the society. In these difficult times, private doctors are catering to the other mundane health problems which are also necessary to be cured apart from Covid-19. They are fulfilling their duty bestowed upon them despite the risk of getting infected by the corona virus. Therefore, the State is under obligation to extend the protective umbrella of order dated 11.4.2020 to private doctors, more so when they have chosen to protect even '*ration dealers*' and

'accredited journalists', who are no way remotely connected to treatment of patients. Families of private doctors have better right to be extended the benefit of order dated 11.4.2020 (Pension 05/2020).

(XVI) That, all other grounds and grounds emanating from the grounds mentioned herein above shall be urged at the time of hearing.

5. That, there is no alternative and efficacious remedy other than to approach the Hon'ble Court for the relief prayed for in the writ petition.

6. That, the petitioner has not filed such petition either before the Hon'ble Supreme Court or before this Hon'ble Court earlier.

Prayer

In conspectus of aforesaid state of facts it is prayed to Hon'ble Court to:-

(i) To issue an appropriate writ, order or direction directing the Government of Rajasthan to extend the benefit of order dated 11.4.2020 (Pension 05/2020) to *'private doctors'* practising in all fields, whether belonging to Allopathic or Homeopathic or Ayurvedic system of medicine, who have died of Covid-19, for *ex-gratia* payment /compensation of *Rs 50 Lacs* to their families and dependents, more so, when *'ration*

dealers' and *'accredit journalists'* have been extended the same by including them in the order dated 11.4.2020 *supra* by order dated 25.3.2021, entitling their family members or dependents to receive *ex-gratia* payment/compensation of *Rs 50 Lacs*, in the event of their death due to Covid-19 infection.

- (ii) Issue an appropriate writ, order or direction directing the Government of Rajasthan to make payment of *ex-gratia* payment/ compensation of Rs 50 Lacs to petitioner, whose husband, a practicing Homeopath, died of Covid-19.
- (iii) Interest @ of 18% p.a. be awarded over the *ex-gratia* payment/compensation from the date of death of husband of petitioner.
- (iv) Any other order which Court deem fit and proper in facts and circumstances of case may also be passed in favour of petitioner;
- (v) Award cost of petitioner

Your humble petitioner

Through her counsels

[SUNIL SAMDARIA ISHA BELANI
RAMESH CHAND BAIRWA

ADVOCATES

Notes:-

1. That, this is a S.B. petition and *vires* of any act/rule is not under challenge.
2. That, the petition has not been typed by any of the staff members of the High Court.
3. That, pie papers are not readily available therefore stout papers have been used.
4. That, P.F, Notices, extra sets shall be filed within the time directed by the Hon'ble Court.

Counsel for the Petitioner