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(RAJYA SABHA)



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To,

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Mr. Ravishankar Prasad
Hon'ble Minister for Law and Justice,
4th Floor, A-Wing, Shastri Bhawan
New Delhi-110 001

Dear Thiru Ravishankar Prasad Avargal,
Vanakkam.

Sub: Ordinance to bring an amendment to "The Epidemic Diseases Act, 1897" to cover atrocities against the healthcare workers like doctors, nurses, hospital staff, and the dignified disposal of dead bodies of victims of epidemic diseases – Regd:

We are all united as a nation to fight the pandemic caused by SARS-CoV-2 virus. In these times of distress, the country's healthcare workers like doctors, nurses, hospital staff, lab technicians etc are our soldiers on the frontline, guarding us against the deadly onslaught of the virus. For our part, we must ensure at the very least their safety, and dignity. You would have seen reports in various press and media about heinous acts of abuse and attacks on the healthcare workers, who are selflessly discharging their duties and responsibilities. Now, we are hearing of outrageous incidents of bodies of healthcare workers, martyred in the war against COVID-19, and persons who succumb due to Covid 19 virus are being treated with disrespect and the difficulties faced by the families in burying/ cremating them. The reported incidents available in public domain through news paper reports and videos are narrated to appreciate my request for an ordinance to bring an amendment to "The Epidemic

Diseases Act, 1897” to cover atrocities against the healthcare workers like doctors, nurses, hospital staff, and the dignified disposal of dead bodies of victims of epidemic diseases.


In Madhya Pradesh healthcare workers and civic officials were attacked by a mob of angry locals in Ranipur area of Indore city. The medical team had visited the area to screen residents for signs of corona virus infections. Two women doctors were injured in the attack and had to be rescued by the Police.

A similar incident took place in Bareilly, where a team of Auxiliary Nurse Midwives (ANM) was allegedly manhandled by villagers when they had gone to verify if any outsider had taken shelter there, or any Corona virus suspect was staying in the locality.

In another incident at Bengaluru, Asha workers (Accredited Social Health Activist) were allegedly assaulted in Sadiq layout area, where they were deputed by the Karnataka Government to collect data on people who were showing symptoms of COVID-19. The Asha workers had been deployed to conduct a door-to-door survey in localities and collect data on people having cough, cold and fever symptoms and surveys to gather information about those who are likely to be affected by COVID-19.

In another incident, health officials who had come to shift suspected patients of corona virus to a quarantine facility were manhandled in Bengaluru. The team was attacked by a large mob of about 200 locals when the officials reached a neighbourhood to take 58 people who were believed to have come in contact with three corona virus patients. They were forced to retreat leaving behind the 33 locals who had to be taken to the isolation units. These incidents show that there is no deterrent to persons attacking healthcare workers, particularly in such critical times.

Another challenge looming at large during this pandemic is the disposal of the bodies of those who succumb to the virus. The right to a decent burial has been held to be a fundamental right enshrined under Article 21 of the Constitution of India by the Hon'ble Madras High Court in its landmark judgment in the case of *DMK vs. State of Tamil Nadu*, pertaining to the burial of the



late Dr. Kalaignar at Marina. The High Court following judgment of Hon'ble Supreme Court in *Parmanand Katara Vs Union of india* has held that right to dignity and fair treatment is not only available to a living man, but also to his dead body.

On 19th of April, 2020 a shameful incident occurred in Chennai. Dr. Simon Hercules, a 55-year-old Neuro surgeon who was martyred fighting the corona pandemic, was denied a decent burial by some local persons. He had a stellar history of medical service to the community, particularly the economically weaker sections of society. He succumbed to the corona virus on 19.04.2020, and his family and friends took his body for burial to the Kilpauk Cemetery at Chennai. There, they were assaulted heavily by the locals due to ignorance. The residents had thought that the contagion may spread in their neighbourhood if the victim's burial took place. Therefore, the body was redirected to another crematorium at Anna Nagar. When the ambulance reached that spot, there were about 60-70 people armed with stones, bricks and sticks inside the crematorium. They began attacking the ambulance, the drivers and the family and friends of the deceased. The windshield of the ambulance was completely shattered and the two ambulance drivers sustained severe injuries. Two other sanitation staff had also suffered injuries, and therefore the ambulance drivers put the casket back in the vehicle and drove away. One Dr. Pradeep Kumar, a friend of the deceased followed them in his car and reached the hospital. Thereafter, he reportedly said to have picked up personal protective equipment, took two ward boys along with him and drove the ambulance himself to the burial ground again after seeking police help. At the cemetery, the body was laid to rest with the help of the ward boys. As no one was there to help them to fill the grave with mud, the said Dr.Pradeep Kumar and the ward boys with their bare hands filled up the 8-10 feet pit at around 1.30 am. The Police have now arrested 20 persons in connection to the incident. The most troubling part is that the family was attacked by the mob and hence they could not perform their last rites and say their goodbye to the departed soul.



Another such instance is that of a 56-year-old orthopaedic surgeon from Nellore who died of COVID-19 on 12.04.2020 in a private hospital at Chennai. When the body of the 56-year old doctor was taken to the cremation ground at Ambattur, Chennai, on the next day, the locals protested against it, saying it might lead to the spread of corona virus in their locality. Following the resistance, the doctor's body was taken back to the hospital mortuary and later it was cremated late on the next day in another locality.

Though the Police are arresting and registering FIRs against persons who prevent a decent burial of doctors and health care workers martyred to battling the pandemic and also the victims of Covid 19, there exists no clear provision in the statute books to penalise such offences during Epidemic periods. Extraordinary situation warrants extraordinary remedy. Thus, the Epidemic Diseases Act, 1897 requires to be suitably amended to include stringent penal provisions for persons who attack healthcare workers during epidemic times and also against persons who prevent the decent burial of the victims of epidemic disease. The said amendments must make these offences cognizable by the Police, so that they can immediately act against the perpetrators of these types of inhuman acts. Though Public Health is traceable to Entry 6 and List II which is a State subject, Covid 19 has an international ramifications on the health of the human beings. The World Health Organization (WHO) has declared the recent COVID-19 epidemic affecting 114 countries, including India, as a Public Health Emergency of International Concern and has also characterized it as a controllable pandemic and periodical guidelines are being issued by WHO including disposal of bodies affected by Covid 19 virus. Therefore the only option that is available is to amend "The Epidemic Diseases Act 1897" or to bring in new legislations through ordinances. Under Art 253 of the Constitution of India, the power to make any law for the whole or any part of the territory of India for implementing decision of WHO is certainly available with the Parliament. In a given situation we are facing now, amendment by way of



ordinances instantaneously to time tested "The Epidemic Diseases Act 1897" would be feasible and preferable.

In the United Kingdom, prevention of the lawful and decent burial of a dead body is an offence punishable with a maximum sentence of life imprisonment or unlimited fine or both. In Canada's Criminal Code there exists a provision which reads "*who ever improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not is guilty of an offence*" and is liable for imprisonment for a term of not more than five years.

Therefore, when the right to a decent burial has been judicially recognised as a fundamental right, we must necessarily have a corresponding provision in the statute books to penalise those who prevent the exercise of the said right.

Therefore, while suitably amending the Epidemic Diseases Act, 1897 severe punishment of imprisonment of up to seven years should be prescribed for those assaulting healthcare workers during the performance of their duties, or preventing the burial of the bodies of victims of epidemic diseases during an epidemic period. This would work as an effective deterrent to the offenders. This will also effuse confidence to the health care workers, who are rendering yeoman services to the society and nation, and to the families of the deceased of victims of epidemic disease who would already be under severe mental agony.

Since the Parliament is not in session, these amendments would need to be enacted by way of an Ordinance as it is most necessary and urgent.

I therefore request your good-self to bring in a suitable Ordinance to amend the Epidemic Diseases Act, 1897 and enact penal provisions as indicated above and oblige.

With Warm Regards,



P. Wilson

Senior Advocate

Member of Rajyasabha, DMK Party.