



2025:CGHC:1494

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 152 of 2025

1. Ramesh Baghel S/o Subhash Baghel Aged About 45 Years R/o Mendabhata, Chhindawada, Police Station And Tahsil Darbha, District Bastar, C.G.

... Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Home, Mahanadi Bhawan, Nawa Raipur, District Raipur, C.G.
2. Director General Of Police Police Headquarters, Naya Raipur, District Raipur, C.G.
3. Inspector General Of Police Police Range Bastar, Jagdalpur, District-Bastar, C.G.
4. Collector-Cum-District Magistrate District Bastar, C.G.
5. Superintendent Of Police District Bastar, Jagdalpur, District Bastar, C.G.
6. Sub Divisional Magistrate Tokapal, District Bastar, C.G.
7. Tehsildar Tehsil Darbha, District Bastar, C.G.
8. Station House Officer Police Station Darbha, District Bastar, C.G.
9. Secretary Gram Panchayat Chhindawada, District Bastar, C.G.

... Respondents

(Cause title is taken from Case Information System)

For Petitioner : Shri Kishore Narayan, Advocate

For Respondent/State : Shri Praveen Das, Dy. Adv. General

For Intervener : Shri Rohit Sharma, Advocate

Order on Board

By

Bibhu Datta Guru, J.

9/1/2025

1. By the present petition, the petitioner, who is the son of Subhash Baghel (since deceased) seeking for the following reliefs :

10.1) That the Hon'ble Court may kindly be pleased to issue a writ of mandamus or any other appropriate writ directing the respondents to permit the petitioner and his family to carry out last rites of his father's mortal remains as per Christian religious customs at the area earmarked for Christians in the village common graveyard located in village Chhindawada Police Station and Tahsil Darbha, District Bastar (C.G.) in the interest of justice.

10.2) That, the Hon'ble Court may kindly be pleased to issue a writ of mandamus or any other appropriate writ directing the respondents to provide adequate police protection and local administration's support while carrying out last rites of his father's mortal remains as per Christian religious customs at the area earmarked for Christians in the village common graveyard located in village Chhindawada Police Station and Tahsil Darbha, District Bastar (C.G.) in view of the peculiar facts mentioned in this case. further, pass an order directing the respondents to provide police protection to petitioner and his family till the continuation of threat in the interest of justice.

10.3) Any other relief which this Hon'ble Court may deem and proper in the present circumstances of the case, in the interest of justice.

2. (a) Facts of the case, as projected in the writ petition, are that the petitioner is a member of Christian Community belonging to New

Apostolic Church. Petitioner is the third generation Christian. He is resident of Village Chhindawada. Their family and ancestors have been residing in the said village since time immemorial. They have agricultural lands in the village. They belong to Mahra caste. Father of the petitioner namely; Subhas Baghel became a pastor in the year 1986-87 and since then he has been involved in leading and participating prayers in the church situated in their village and elsewhere too. Village Chhindawada has an approximate population of 2000-2500. Out of this, an approximate number of 750 individuals belong to Mahra community and remaining persons are Tribals. About 200-250 individuals are members of Christian religion.

(b) According to the petitioner, village Chhindawada has a graveyard orally allotted by the traditional Gram Panchayat for burial/cremation of dead bodies. In this village grave yard, separate areas are earmarked for burial of Tribals, for burial/cremation of person belonging to Hindu religion and for persons belonging to Christian community. In the area specified for Christians, the petitioner's Aunt Shanti Baghel & Grandfather Lakheshwar Baghel have been buried in the said village graveyard.

(c) Father of the petitioner died on 07.01.2025 at 07:00 am due to prolonged illness and old age illness. After the death of his father, the petitioner and his family wanted to hold last rites of his father and wanted to bury his mortal remains in the area specified for Christian persons in the above mentioned village graveyard. Hearing about this

some villagers aggressively objected to this and they have threatened of dire consequences in case petitioner and his family bury petitioner father in this land. They are also not allowing the petitioner's family to bury the dead body in the petitioner's family privately owned land. According to the villagers, a Christian person cannot be buried in their village be it at village graveyard or the petitioner's own private land. The objected persons are Tundul, Shankar, Sukhram, Deviram, Mahesh, Vinod and Mangtu, who is husband of the incumbent Sarpanch.

(d) When the villagers turned violent, the petitioner's family made a report to police on which 30 - 35 police personnel reached the village. The police also exerted pressure on the family to take the body out of the village. They have also threatened that if the dead body is buried as per Christian rites in their village they will take legal action against the petitioner and his family. Presently the dead body has been kept in the mortuary in the district hospital and medical college, Jagdalpur. The petitioner stated that he made an application seeking protection and help from the respondent authorities for ensuring peaceful and honorable burial of his father in the Christian burial area of village Chhindawada Police Station and Tahsil Darbha, District Bastar (C.G.). He has made these applications to Collector Bastar, SDM Tokapal, Inspector General of Police Bastar, S.P. Bastar and Police Station Darbha also.

(e) As per the provisions of the Chhattisgarh Gram Panchayat (Regulating Places for Disposal of Dead Bodies, Carcasses and Other Offensive Matter) Rules, 1999” (hereinafter referred as ‘the Rules of

1999') cast a duty on the Gram Panchayat to facilitate disposal of dead bodies in the form of burial or cremation in accordance with the custom of the deceased person's religion. Thus, this petition.

3. Learned Dy. Adv. General appearing for the State as also learned counsel appearing for the Intervener, would submit that there is no separate graveyard for Christians at village Chhindawada. To buttress this contention, learned counsel for the intervener would place reliance on a copy of the certificate issued by the Gram Panchayat, Chhindawada, which contains the signatures of Sarpanch, Up-Sarpanch and Panchas. The same is taken on record. However, they would submit that there will be no objection if the petitioner performs funeral rites of his deceased father as per his original custom and in such a situation, he will be permitted to perform funeral rites of his deceased father in a nearby village Karkapal, which is situated at a distance of 20-25 kms. from village Chhindawada, where a separate burial ground/grave yard of Christian community is available.
4. I have heard learned counsel appearing for the parties and perused the documents.
5. In exercise of powers conferred under Section 95 read with Clause 12 of Section 49 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter referred as "the Adhiniyam, 1993"), the State Government has made the Rules of 1999. Rule 3 talks of disposal of corpse within 24 hours whereas Rule 4 casts duty upon Gram Panchayat to arrange for disposal of corpse and Rule 5 provides for places for disposal of corpse. Rule 3, 4 & 5 are relevant and the same are reproduced herein below :

“3. Disposal of corpse within 24 hours.-

(1) When a person has died in any place within the Gram Panchayat area, the occupier or owner of such place shall, to the best of his ability, arrange through the deceased person's relatives or otherwise for the corpse to be buried, burnt or otherwise disposed of in accordance with the custom of the deceased person's religion within twenty four hours of death; or if he is unable to make such arrangement, shall within twenty four hours of death, report the fact to the Sarpanch or to the Secretary of the Gram Panchayat or to such person as the Gram Panchayat may appoint in this behalf.

(2) Every person who becomes aware that a corpse is lying in any place uncared for, shall forth with report that fact to the Sarpanch or to such person as the Gram Panchayat may appoint in this behalf and also to the occupier or owner of that place.

(3) Nothing in this rule shall apply to a case where the body of the deceased is required for the purpose of a judicial or police, enquiry.

4. Gram Panchayat to arrange for disposal of corpse.-

(1) On receipt of a report under sub-rule (2) or rule 3, the Gram Panchayat shall arrange for the disposal of the corpse.

(2) The expense's incurred for such disposal shall be recovered from the heirs of the deceased if any, as arrears of tax levied under the Act.

(3) If there be no such heirs the expenses shall be borne by the Gram Panchayat.

5. Place for disposal of corpses.-

No place other than a place approved by the Gram Panchayat by an order in writing duly published in the village, which shall be known as burning ghat or burial

ground or a place determined by the Government or in the Government records shall be used for the disposal of a corpse by burning, burying or otherwise.”

6. In *Jagadheeswari v B. Babu Naidu*¹, where one person wanted to cremate dead body on the land other than the designated place, Full Bench of High Court of Madras considering the provisions contained in Rule 4, 5 and 7 of the Tamil Nadu Village Panchayats (Provisions of Burial and Burning Grounds) Rules, 1999 has observed thus :

“25. In another case of identical issue when came up before the learned Single Judge in Palani Vs. District Collector, Mettur, Salem District and Others, reported in 2014 SCC OnLine Mad 10969, Justice V. Ramasubramanian held as follows :

“5. No private land can be converted into a burial ground, without a license from a local Panchayat. There is a procedure prescribed under the Tamil Nadu Village Panchayat (Provision of Burial and Burning Grounds) Rules, 1999, for using a land as a burial ground. Obviously, without following the said procedure and without converting the land into a burial ground and without the license of the Panchayat, the burial appears to have taken place.....”

28. In *Mathew vs. State of Kerala* reported in 2022 SCC Online Kerala 1142, burial of body in a non-designated place came to be tested in the light of the Rules framed by the Kerala Government for burning and burying dead bodies. In that case, the District Collector issued a notice to the land owner, who had prepared a tomb for him to be buried after his death directing him to get the same registered under the Kerala Panchayat Building Rules and Kerala Panchayat Raj (Burial and Burning Grounds) Rules, 1998. The said notice was challenged stating that the

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Kerala Panchayat Raj Burial and Burning Grounds Rules, 1998 is not applicable to the case where he has constructed structure in his land which could be used as a tomb in future. The contention of the petitioner that the State cannot impose restriction on him for cremation of his own body in his own property where he is residing, was negated by the Kerala High Court stating that the Rule prohibits opening, constructing or using new burial ground without a license from the concerned District Collector.

30.Thus, it is very clear that except the place which has already been registered under Rule 4 or a new place where license is obtained following the procedures contemplated under Rules 5(2) (3) and (4), no body can be buried or burnt in the place which is neither been registered or granted license.

32. The outcome of the above analysis of the Rules and case laws leads to the conclusion, that the condition of 90 meters restriction found in Rule 7(1) cannot be construed as right to bury body anywhere and everywhere. Burial or burning body is subject to the other provisions in the Rules. The conditions of distance restriction from the water body, cannot be read in isolation unmindful of the purpose of the Rules and other provisions thereunder.

33. The Division Bench in P. Muthusamy's case has not declared that body can be buried anywhere other than registered or licensed place in a village Panchayat. The Division Bench had only recognized the custom prevailing in that particular village. The observation made in the Muthusamy's case, is restricted only to the facts of that case and it cannot have application in rem.

7. Admittedly, there is no separate burial ground/grave yard for the followers of Christian community is available in village Chhindawada, however, as per submission of learned Dy. Adv. General and learned counsel for the intervener, separate burial ground/grave yard for the

followers of Christian religion is available in village Karkapal, which is situated at a distance of 20-25 kms. from village Chhindawada.

8. As submission of learned counsel for petitioner and claim of petitioner is that he wants to perform funeral rites of his father according to Christian religion, therefore, considering the fact that burial ground/graveyard of Christian community is available in nearby area, it will not be proper to grant relief as sought for by petitioner in this writ petition, which may cause unrest and disharmony in the public at large.
9. With the aforesaid observation and directions, writ petition stands disposed of.

Sd/-

(Bibhu Datta Guru)
Judge

Gowri